

ing the issuing to and revocation and suspension of licenses of weighmasters; requiring the use of suitable scales; regulating the issuing, use and keeping of weighmaster's certificates; conferring powers and imposing duties upon the State, city and county inspectors of weights and measures and the Department of Internal Affairs; declaring certain proofs to constitute prima facie evidence of a violation of the act; extending the provisions of said act to cases heretofore exempted; and prescribing additional and increased penalties.

And said bill having been read at length the first time, Ordered, To be laid aside for second reading.

#### ADJOURNMENT

Mr. GELTZ. Mr. President, I move that the Senate do now adjourn until Tuesday, June 3, 1941, at 2 o'clock p. m., Eastern Standard Time.

Mr. CHAPMAN. Mr. President, I second the motion. The motion was agreed to.

The Senate adjourned at 11:59 o'clock p. m., Eastern Standard Time, until Tuesday, June 3, 1941, at 2 o'clock p. m., Eastern Standard Time.

### HOUSE OF REPRESENTATIVES

MONDAY, June 2, 1941.

The House met at 8 p.m.

The SPEAKER (Elmer Kilroy) in the Chair.

#### PRAYER

The Chaplain, Rev. Donald McFall offered the following prayer:

Eternal God, our Father, we thank Thee for this wonderful world in which we live for we realize that from its beginning it has been perfect in beauty because Thou did'st create it.

Forbid that we should look upon our neighbor merely as a hand that labors for us, or as a customer who buys from us, or as a clown who laughs for us, or even as one whom we feel beneath us.

Help us to find the larger truth which gives all other truth its meaning, that gives life a worth-while purpose, that tells us not only how to be well fed and clothed, but also how to find our true life that is found only in Thee, our God.

We beseech Thee to bless each member of this House of Representatives and every visiting friend here tonight. May each member play his part in helping Pennsylvania take its place as a leader in the defense of our great Nation. In Thy Holy Name, we pray. Amen.

#### JOURNAL APPROVED

The SPEAKER. The Clerk will read the Journal of Thursday, May 29, 1941.

The Clerk proceeded to read the Journal of Thursday, May 29, 1941. when, on motion of Mr. HERMAN, unanimously agreed to, the further reading was dispensed with and the Journal approved.

#### COMMUNICATIONS AND PETITIONS

The SPEAKER laid before the House the following communications and petitions which were read by the Clerk.

##### REAL ESTATE LICENSES

A communication from Pennsylvania Real Estate Asso-

ciation, addressed to the Speaker, urging rigid endorsement of the Real Estate License Law.

Referred to the Committee on Appropriations.

##### FOOD STAMPS

A communication from the Mayor of the city of Wilkes-Barre, addressed to the Speaker, favoring passage of House Bill No. 1078, providing for a revolving fund for the Federal Food Stamp Plan.

Referred to the Committee on Appropriations.

##### BUILDING AND LOAN ASSOCIATIONS

A communication from Wissahickon Building Association, Philadelphia, addressed to the Speaker, favoring passage of Senate Bill No. 512, Insurance Act for Building and Loan Associations.

Referred to the Committee on Banking.

##### REAPPORTIONMENT

Communications from the Civic Club of Allegheny County and the Lions Club, Williamsport, addressed to the Speaker, urging passage of a fair and just Congressional Senatorial and Legislative reapportionment bill.

Referred to the Committee on Constitutional Amendments.

##### SCHOOL CODE

Communications from citizens of Pennsylvania, addressed to the Speaker, favoring passage of House Bill No. 1371.

Referred to the Committee on Education.

##### STATE TEACHERS COLLEGES

A communication from the Alumnae Association of the State Teachers College at West Chester, opposing passage of House Bill No. 460 converting teachers colleges into advanced technical and trade schools.

Referred to the Committee on Education.

##### SCHOOL CODE

A communication from Harvard Teacher Union, Cambridge, Massachusetts, addressed to the Speaker, disapproving passage of Senate Bill No. 518.

Referred to the Committee on Education.

##### HIGHWAYS

A communication from Conference of the officials of the cities of Lehigh Valley, addressed to the Speaker, favoring passage of Senate Bills Nos. 297 and 298.

Referred to the Committee on Highways.

##### INSURANCE COMPANY LAW OF 1921

A communication from Pennsylvania Federation of Labor, addressed to the Speaker, favoring passage of House Bill No. 989, allowing certain exemption to be waived in favor labor unions.

Referred to the Committee on Insurance.

##### SALES BY EMPLOYERS

A communication from Jacob Reed's Sons, Philadelphia, addressed to the Speaker, favoring passage of House Bill No. 1023.

Referred to the Committee on Judiciary General.

## ADMISSION OF ATTORNEYS

A communication from James J. Regan, Jr., Philadelphia, requesting favorable action on question of constitutionality and favoring passage on House Bill No. 1025.

Referred to the Committee on Judiciary General.

## LABOR

A communication and resolution from Pennsylvania Federation of Democratic Women, addressed to the Speaker, endorsing program for a liberal old age pension plan.

Referred to the Committee on Labor.

## WAGE AND HOUR STANDARDS

A communication from Pennsylvania Federation of Labor, addressed to the Speaker, favoring passage of House Bill No. 1231.

Referred to the Committee on Labor.

## LABOR

A communication from United Office and Professional Workers of America, Local 2, Philadelphia, addressed to the Speaker, favoring passage of legislation providing for anti-union, wages and hours for women and workmen's compensation.

Referred to the Committee on Labor.

## CLUB LICENSES

A petition from Catholic Total Abstinence Union of Philadelphia, protesting passage of legislation permitting increase of the number of clubs dispensing alcoholic beverages.

Referred to the Committee on Liquor Control.

## REGISTRATION BOARD FOR CONTRACTORS

A communication from Associated Pennsylvania Constructors, addressed to the Speaker, opposing passage of House Bill No. 1096.

Referred to the Committee on Professional Licensure.

## PROFESSIONAL LICENSURE

Communications from the Medical Society of the state of Pennsylvania; Pennsylvania State Dental Society; Pennsylvania Conference of Professional Licensees; Pennsylvania Real Estate Association; Philadelphia County Optometric Society; Advisory Committee on Beauty Culture, protesting decrease of appropriation to the bureau of Professional Licensing.

Referred to the Committee on Professional Licensure.

## COMMERCIAL FEEDING STUFFS LAW

Communications from Pratt Food Company, Philadelphia, and Barker Moore and Mein Co., Philadelphia, protesting passage of House Bill No. 1582, amending Commercial Feeding Stuffs Law.

Referred to the Committee on Public Utilities.

## LICENSED WEIGHMASTERS

Telegrams from citizens of Pennsylvania, addressed to the Speaker, favoring passage of House Bill No. 849.

Referred to the Committee on State Government.

## PUBLIC ASSISTANCE

A petition from residents of Snyder County, requesting

repeal of Act of 1937, providing for support of indigent persons by relatives and favoring passage of House Bill No. 115.

Referred to the Committee on Welfare.

## RELIEF

A communication from Pennsylvania Federation of Labor addressed to the Speaker, requesting a public hearing on House Bill No. 1216.

Referred to the Committee on Welfare.

## PUBLIC ASSISTANCE

A resolution from the Cambria County Board of Assistance favoring passage of Senate Bill No. 464, removing the two year residence requirement for general assistance.

Referred to the Committee on Welfare.

## DUNMORE SCHOOL BOARD

A memorandum from the Dunmore School Board relative to request for an investigation of that board.

Referred to the Committee on Rules.

## COMMUNICATIONS FROM THE GOVERNOR

The Secretary to the Governor being introduced, presented a communication in writing from His Excellency the Governor, which was read as follows:

## APPROVAL OF HOUSE BILL No. 1021

Commonwealth of Pennsylvania,  
Governor's Office, Harrisburg, May 29, 1941.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I have the honor to inform you that I have this day approved and signed House Bill No. 1021, Printer's No. 740, entitled, "An Act to add section six hundred seventeen and one-tenth to the act approved the eighteenth day of May one thousand nine hundred and eleven (P. L. 309), entitled 'An act to establish a public school system in the Commonwealth of Pennsylvania together with the provisions by which it shall be administered and prescribing penalties for the violation thereof providing revenue to establish and maintain the same and the method of collecting such revenue and repealing all laws general special or local or any parts thereof that are or may be inconsistent therewith,'" authorizing school districts under certain conditions to appropriate money to non-profit corporations established for the purpose of constructing school buildings for the use of the district."

ARTHUR H. JAMES.

The Secretary to the Governor being introduced, presented a communication in writing from His Excellency the Governor, which was read as follows:

## APPROVAL OF HOUSE BILLS Nos. 228, 229, 231, 232, 233 and 235.

Commonwealth of Pennsylvania,  
Governor's Office, Harrisburg, May 29, 1941.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I have the honor to inform you that I have this day approved and signed the following:

House Bill No. 228, Printer's No. 506, entitled, "An Act to reenact and amend the title and the act approved the fourteenth day of June one thousand nine hundred thirty-

five (P. L. 341) entitled as amended 'An act to provide revenue by imposing a State tax upon sales of cigarettes by dealers as herein defined requiring persons engaged in the sale of cigarettes at wholesale and retail to secure permits prescribing the method and manner of collecting such tax conferring powers and imposing duties on the Department of Revenue and persons as herein defined engaged in the sale of cigarettes at retail or wholesale and providing penalties' as previously reenacted and amended by extending the provisions of the act for a further limited period of time and exempting from its provisions certain sales of cigarettes for the use of personnel subject to regulations of the Secretary of War and Secretary of the Navy of the United States and persons engaged in making such sales."

House Bill No. 229, Printer's No. 5, entitled, "An Act to further amend section four of the act approved the twenty-first day of May one thousand nine hundred thirty-one (P. L. 149) entitled 'An act imposing a State tax payable by those herein defined as distributors on liquid fuels used or sold and delivered within the Commonwealth which are ordinarily practically and commercially usable in internal combustion engines for the generation of power providing for the collection and lien of the tax and the distribution and use of the proceeds thereof requiring such distributors to secure permits to file corporate surety bonds and reports and to retain certain records imposing duties on retail dealers common carriers county commissioners and such distributors providing for rewards imposing certain costs on counties conferring powers and imposing duties on certain State officers and departments providing for refunds imposing penalties and making an appropriation' by imposing and continuing the additional emergency tax on liquid fuels for a further limited period of time."

House Bill No. 231, Printer's No. 6, entitled, "An Act to reenact and amend the title and the act approved the sixteenth day of May, one thousand nine hundred thirty-five (P. L. 208), entitled, as amended, "An act to provide revenue for State purposes by imposing an excise tax, for a limited period of time, on the net incomes of certain corporations, joint stock associations, and limited partnerships; providing for the assessment, collection, settlement and resettlement of taxes, and reviews and appeal therefrom; conferring powers, and imposing duties on certain persons, corporations, joint-stock associations, limited partnerships, State and county officers, boards, and departments; making an appropriation; and providing penalties," as previously reenacted and amended, by extending the provisions of the act for a further limited period of time.

House Bill No. 232, Printer's No. 7, entitled "An Act to further amend the act approved the first day of June one thousand eight hundred eighty-nine (P. L. 420) entitled 'A further supplement to an act entitled "An act to provide revenue by taxation" approved the seventh day of June Anno Domini one thousand eight hundred and seventy-nine' by increasing for a further limited period of time the rate of tax imposed by the act upon the gross receipts of certain companies limited partnerships associations joint-stock associations copartnerships and persons."

House Bill No. 233, Printer's No. 8, entitled "An Act to further amend section one of the act approved the thirteenth day of June, one thousand nine hundred seven (P. L. 640), entitled 'An act to provide revenue by levying a tax upon the shares of stock of companies incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-ninth, one thousand eight hundred and seventy-four and the supplements thereto; for the insurance of owners of real estate, mortgages, and others interested in real estate, from loss by reason of defective titles, liens, and encumbrances; and of companies entitled to the benefits of, and of companies having any of the powers of, companies entitled to the benefits of an

act, entitled 'An act conferring upon certain fidelity, insurance, safety deposit, trust, and savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and of the supplements thereto,' approved June twenty-seventh, one thousand eight hundred and ninety-five, commonly known as title insurance or trust companies," by continuing the increased rate of tax for a further limited period of time, and reducing the rate of tax after such limited period of time.

House Bill No. 235, Printer's No. 10, entitled "An Act to reenact and amend the title and the act approved the ninth day of June one thousand nine hundred thirty-six (Special Session of one thousand nine hundred thirty-six (P. L. thirteen) entitled 'An act imposing an emergency State tax for a limited period of time on liquor as herein defined sold by the Pennsylvania Liquor Control Board providing for the collection and payment of such tax and imposing duties upon the Department of Revenue and the Pennsylvania Liquor Control Board' as previously reenacted and amended by extending the provisions thereof for a further limited period of time."

ARTHUR H. JAMES.

#### LEAVE OF ABSENCE

By unanimous consent leave of absence was granted as follows:

Mr. Young for Mr. ALLMOND for tonight's session.

Mr. James for Mr. BRETHERICK for tonight's session.

Mr. FINESTONE for himself for the remainder of the week after Tuesday's session.

Mr. SAMUEL ROSE for himself for tomorrow's session.

Mr. HIRSCH for himself for the remainder of the week after Tuesday's session.

The SPEAKER for Mr. WILKINSON for tonight's session.

#### BILL ON FIRST READING

##### BILL PASSED OVER

There being no objection House Bill No. 1505, Printer's No. 679, was passed over at the request of The SPEAKER.

#### BILLS ON FIRST READING

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1679, entitled:

An Act to enable the county commissioners of counties of the fourth, fifth and sixth classes to establish by resolution the requirements of responsible bidders for county printing; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1522, entitled:

An Act to further amend sections two hundred five and seven hundred eleven of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (P. L. 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and

officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing creating reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," by creating a Motor Police Trial Board; setting forth its powers and duties; and regulating the conduct, hours of work, and compensation, of members of the Pennsylvania Motor Police.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1706, entitled:

An Act authorizing the Pennsylvania Historical Commission, on behalf of the Commonwealth of Pennsylvania, to acquire by gift the Harmony Society Graveyard in the Borough of Ambridge Pennsylvania; providing for the control, management, and maintenance thereof; authorizing the Commission to make and enforce rules and regulations for the preservation, maintenance and visitation thereof.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1723, entitled:

An Act to amend section four of the act, approved the first day of July, one thousand nine hundred and nineteen (P. L. 717), entitled "An act fixing the number, compensation, mileage, and duties of the officers and employes of the General Assembly, and providing for their election or appointment, term of office, and manner of filling vacancies," by providing for the appointment, compensation and duties of clerks and pages to the majority and minority floor leaders, respectively, of the Senate and of the House of Representatives.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1366, entitled:

An Act to amend the title and the act, approved the twenty-fifth day of May, one thousand nine hundred thirty-three (P. L. 1001), entitled "An act providing for the regulation of aeronautics within this Commonwealth; conferring powers and imposing duties upon the Department of Revenue in respect thereto; providing for the licensing and registration of airman and aircraft; establishing the legal status of air navigation; providing for sovereignty in, and ownership of, space; providing for lawfulness of flights; regulating civil causes of action arising out of operation of aircraft; fixing the status of contracts, crimes, and torts in, by, or by means of operation of aircraft; imposing duties upon officers, burgesses, magistrates, alderman, justices of the peace, the courts and clerks thereof; providing for denial or revocation of licenses; providing for certain penalties and their disposition; and repealing certain existing laws," as amended, by transferring from the Department of Revenue to the

Department of Military Affairs powers and duties with respect to aeronautics.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1367, entitled:

An Act to amend the title and the act, approved the seventh day of May, one thousand nine hundred thirty-five (P. L. 130), entitled "An act providing for the service of process in civil suits on nonresident operators or non-resident owners, or a resident who becomes a non-resident and conceals his whereabouts, of aircraft operated within or above the Commonwealth of Pennsylvania; and making the operation of such an aircraft within or above the Commonwealth of Pennsylvania, the equivalent of the appointment of the Secretary of Revenue of the Commonwealth of Pennsylvania as the agent of the said non-resident upon whom civil process may be served; and providing for further notice to the defendant in any such suit," by making the Adjutant General in lieu of the Secretary of Revenue the agent for the service of process in certain civil suits involving aircraft.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1368, entitled:

An Act to further amend the act approved the first day of May, one thousand nine hundred twenty-nine (P. L. 1046), entitled "An act reappropriating the moneys in the Motor License Fund," as reenacted and amended, by making the moneys in the Motor License Fund available to the Department of Military Affairs, instead of the Department of Revenue, with respect to aeronautical matters.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1369, entitled:

An Act to amend the title and the act, approved the twenty-fifth day of May, one thousand nine hundred thirty-three (P. L. 1016), entitled "An act relating to aeronautics; providing for the maintenance and operation of intermediate landing fields and air navigation facilities by the commonwealth alone or in cooperation with the United States Government or political subdivisions of the Commonwealth; providing for the execution of leases or the issuance of licenses to the United States Government or to political subdivisions of the Commonwealth for the maintenance of navigation facilities on intermediate landing fields of the Commonwealth; conferring powers and duties on the Department of Revenue with respect thereto; and repealing certain acts and parts of acts," by transferring from the Department of Revenue to the Department of Military Affairs certain powers and duties with respect to aeronautics.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1323, entitled:

An Act authorizing the Department of Property and Supplies, with the consent of the Department of Military Affairs and the approval of the Governor, to sell and convey the property of the Pennsylvania State Arsenal at Harrisburg to the City of Harrisburg, in exchange for the

conveyance by said city of Wildwood Park to the Commonwealth, for the use of the Pennsylvania Game Commission in maintaining a wild life sanctuary.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1722, entitled:

An Act authorizing the Department of Property and Supplies, with the approval of the Governor and the Board of Trustees of Warren State Hospital, to acquire a certain tract of land and for the use of said hospital, and making an appropriation therefor.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1693, (Senate Bill No. 451), entitled:

A Joint Resolution making application to the Congress of the United States to call a convention for proposing an amendment to the Constitution of the United States, prohibiting taxation of bonds and securities of States, their instrumentalities or political subdivisions and the income therefrom, without the consent of the State.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1673, (Senate Bill No. 592), entitled:

An Act to further amend section one of the act, approved the thirtieth day of May, one thousand eight hundred and ninety-three (P. L. 183) entitled "An act providing for the acquisition by the State of certain ground at Valley Forge for a public park, and making an appropriation therefor," reducing the amount of land to be acquired by the Valley Forge Park Commission.

And said bill having been read at length the first time,  
Ordered, To be laid aside for second reading.

Agreeably to order,

The House proceeded to the first reading and consideration of House Bill No. 1462, entitled:

An Act to regulate the locating, drilling, casing, filling and abandoning of natural gas and petroleum wells on property underlaid with workable coal beds, having for its object the protection of life and property, by preventing intrusion of oil and gas therefrom into coal mines in territory containing workable coal beds and conferring powers and imposing duties upon the Department of Mines and providing penalties.

And said bill having been read at length the first time  
Ordered, To be laid aside for second reading.

#### BILLS SIGNED BY SPEAKER

Bills numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the titles were publicly read as follows:

An Act to facilitate vehicular traffic between the eastern and western sections of the Commonwealth by providing for the construction, operation and maintenance of a turn-

pike from a point at or near Irwin in Westmoreland County, the western terminus of the turnpike heretofore constructed by said commission, to a point on the western boundary line of the Commonwealth of Pennsylvania touching on the State of Ohio or the State of West Virginia, and conferring powers and imposing duties on the Pennsylvania Turnpike Commission; authorizing the issuance of turnpike revenue bonds of the Commonwealth, payable solely from tolls, to pay the cost of such turnpike; providing that no debt of the Commonwealth shall be incurred in the exercise of any of the powers granted by this act; providing for the collection of tolls for the payment of such bonds and for the cost of maintenance, operation and repair of the turnpike; making such turnpike bonds exempt from taxation; constituting such bonds legal investments in certain instances; requiring suits against the commission to be brought in Dauphin County; prescribing conditions upon which such turnpike shall become free; providing for grade separations, grade changes and relocation and restoration of public roads and State highways affected by the turnpike; providing for condemnation; granting certain powers and authority to municipal subdivisions and agencies of the Commonwealth to cooperate with the commission; and authorizing the issuance of turnpike revenue refunding bonds.

#### SENATE BILL No. 551.

An Act to amend route 25008 of section two of the act, approved the first day of June, one thousand nine hundred and thirty-three (P. L. 1172), entitled "An act establishing certain streets in boroughs and incorporated towns as State highways and providing for their construction and maintenance at the expense of the Commonwealth."

#### SENATE BILL No. 552.

An Act to abolish and repeal route 25008 in Girard Township, Erie County, established by the act, approved the twenty-second day of June, one thousand nine hundred and thirty-one (Act No. 203), entitled "An act establishing certain township roads as State highways; authorizing their construction maintenance and improvement under certain conditions and restrictions; limiting the obligation of the Commonwealth in the construction of certain structures located on such highways; conferring certain powers upon the Department of Highways and local authorities, persons, associations and corporations for sharing the cost of the maintenance and construction of such highways; and making an appropriation to carry out the provisions of said act."

Whereupon,

The SPEAKER, in the presence of the House, signed the same

#### SENATE MESSAGE

#### TIME OF NEXT MEETING

The Clerk of the Senate being introduced presented an extract from the Journal of the Senate, which was read as follows:

In the Senate June 2, 1941.

Resolved, (if the House of Representatives concur), That when the Senate adjourns this week, it reconvene on Monday, June 9, 1941, at 3:30 o'clock P. M. (Eastern Standard Time), and when the House of Representatives adjourns this week, it reconvene on Monday, June 9, 1941, at 8 o'clock P. M. (Eastern Standard Time).

Ordered, That the Clerk present the same to the House of Representatives for its concurrence.

On the question,

Will the House concur in the resolution of the Senate?  
It was concurred in.

Ordered, That the Clerk inform the Senate accordingly,

REPORT OF COMMITTEE OF JUDICIARY GENERAL  
ON RESOLUTION No. 9

Mr. BROWN. Mr. Speaker, on behalf of the Committee on Judiciary General of the House of Representatives, I desire to transmit to the Speaker and to the House the Committee's report on House Resolution No. 9.

Mr. Speaker, I would like to read into the record the entire report, which is as follows:

May 27, 1941.

To the Honorable Elmer J. Kilroy, Speaker,  
and Members of the House of Representatives.

We have the honor to transmit herein a Report of the Judiciary General Committee of the House of Representatives concerning House Resolution Number Nine, a copy of the said Resolution is attached hereto, made a part hereof and marked Exhibit A.

Judiciary General Committee  
of the House of Representatives

HOMER S. BROWN, Chairman.

LEWIS J. FINESTONE, Secretary.

STATEMENT OF FACTS

Honorable Presley N. Jones, a member of the House of Representatives from the County of Lawrence, duly elected to the General Assembly for the Session of 1941 and 1942, on February 3, 1941 presented Resolution Number Nine to the House of Representatives alleging that the Honorable Don Wilkinson, a duly elected member of the House of Representatives from the County of Luzerne for the Session of 1941-1942, did while serving as a member of the House of Representatives during the Session of 1939 and 1940, introduce and sponsor legislation defining the rights, powers and duties of County Tax Collectors as will be found in Act Number 277, approved the 20th day of June, 1939, P. L. 508, and that said Don Wilkinson, at the time of introduction of said bill, was a tax collector, that the bill was introduced by the said Don Wilkinson for his private and pecuniary profit and that the said Don Wilkinson voted upon the said piece of legislation and that after passage of same received contracts from certain school districts, townships and boroughs of the Commonwealth of Pennsylvania for the collection of taxes under said act.

On February 10, 1941, the resolution was returned to the House of Representatives by the Committee on Rules and referred to the House Judiciary General Committee for action. Th House Judiciary General Committee thereupon appointed a subcommittee composed of the following members of the Judiciary General Committee: Honorable Homer S. Brown, Honorable John H. McKinney, Honorable John R. Bentley, Honorable William L. Shaffer and Honorable George W. Cooper.

Subsequent to the appointment of the subcommittee, the petitioner, Presley N. Jones, submitted a bill of particulars to the committee, which bill of particulars stated in substance that said Don Wilkinson, as a tax collector, had secured certain contracts from the School Board of the City of New Castle for the collection of delinquent per capita taxes, which contracts provided for the payment to the said Don Wilkinson of fees and charges set forth in the Act of 1939 above referred to. To the bill of particulars the respondent, Don Wilkinson, filed a demurrer alleging that the present session of the House of Representatives had no jurisdiction in that the House of Rep-

resentatives is not a continuous body and that Article 3, Section 33 of the Constitution of Pennsylvania dealing with the question of personal or private interest had not been violated. To the demurrer, the aforesaid petitioner filed an answer stating that the respondent had violated Article 7, Section 1 of the Constitution of Pennsylvania dealing with the oath of Senators, Representatives, the Judiciary and State and County Officers, and Article 3, Section 33, the personal and private interest section of the Constitution of Pennsylvania, as it applies to members of the General Assembly.

DISCUSSION

I. The first question raised by the demurrer filed by the Honorable Don Wilkinson is that the present House of Representatives has no authority to take jurisdiction of the matter alleged in the resolution and in support of this question the respondent cited a number of precedents recorded in Hinds Precedents of the House of Representatives of the National Congress to the effect that the House of Representatives not being "a continuous body but an entity that dies at the expiration of the term of each of its members":

"It is a rule of the House of Representatives of Congress that a House may not try to punish one of its members for an offense alleged to have been committed against a preceding House." See Hinds' Precedents of the House of Representatives, Vol. 2, Section 1283; also Sections 1284 and 1285.

Our Committee while not attempting to over-rule the Hinds' Precedents, are of the opinion that the better view is to effect that misconduct on the part of a member of the House of Representatives in a previous term may constitute grounds for his removal or impeachment in a succeeding term, especially where the offending party is his own successor and that re-election would not condone the offense. See *State vs. Welsh*, 109, Iowa, 19, 79 N. W. 369:

"The very object of removal is to rid the community of a corrupt, incapable, or unworthy official. His acts during his previous term quite as effectually stamp him as such as those of that he may be serving. Re-election does not condone the offense. Misconduct may not have been discovered prior to election, and, in any event, had not been established in the manner contemplated by the statute. \* \* \* The commission of any of the prohibited acts the day before quite as particularly stamps him as an improper person to be intrusted with the performance of the duties of the particular office as those done the day after."

See also the case of *Throop Borough's School Directors*, 298, Pennsylvania, 453, page 457:

"Wrong doing cannot be overlooked and approved by the act of the people in re-electing them to office for the ensuing term, and such attempted condonation does not prevent the legally constituted authorities from visiting on the offending persons the results of conduct expressly prohibited by the Act of Assembly."

and on pages 458, 459:

"Offenses committed during a previous term are generally held not to furnish cause for general removal, but where removal carries with it a disqualification to hold office in the future, the rule is otherwise, 46 Corpus Juris 96."

II. The offense alleged in the Bill of Particulars sub-

mitted by the Petitioner, primarily charges the Respondent with violating Article 3, Section 33, of the Constitution of Pennsylvania, which article reads as follows:

"A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to the House of which he is a member, and shall not vote thereon."

Believing that this Session of the Legislature has jurisdiction over the subject involved in the pending Resolution, we now proceed to discuss whether or not the Respondent, Don Wilkinson, is guilty of violating Article 3, Section 33, aforementioned and it becomes necessary to discuss the important provision of this Section of the Constitution in order to define and explain the meaning of the words "personal or private interest."

A perusal of the debates of the Constitutional Convention that concluded its work November 3, 1873, reveals that it not only failed to adopt a sanction of penalty for Article 3, Section 33, but likewise omitted to make clear the meaning of the important language embodied in this Section. Much was said about the practice of individuals representing corporations seeking special and local legislation and special favors, but the Section was finally adopted without a clear distinction as to its meaning.

The Committee is fortunate to cite as an authority in defining the aforementioned words: the interpretation of the able Parliamentarian of the House of Representatives of Pennsylvania, the Honorable S. Edward Moore, and quotes in its entirety his review of this subject which has been handed to the Committee:

"The Constitution of Pennsylvania, Article 3, Section 33, provides: 'That a Member who has a personal or private interest in any measure or bill proposed or pending before the House shall disclose that fact to the House and shall not vote thereon.'

The right of a Member to represent his constituency, is of such major importance that a Member should be barred from voting on matters of direct personal interest only in clear cases and when the matter to be voted upon is particularly personal.

When the matters under consideration affect a cause rather than individuals, the personal interest, belongs, to that cause and is not such as to disqualify a Member from voting.

As for instance a Member may have a personal interest in a particular hospital seeking an appropriation—The Pennsylvania Commission on Constitutional said—"It was not the intent of Article III, Section 33 that a Member should expose such a personal interest to the House of which he is a Member."

Rule VIII of the National House of Representatives reads in part:—"Every Member shall vote on each question put unless he has a personal or pecuniary interest."

In interpreting this rule of Congress which is similar to our own—it has been held that the disqualifying interest must be such as affects the Member directly and not as one of a class (Hinds' Precedents Vol. V, Section 5952; 5954; 5955 and 5963.

Speaker Robert C. Winthrop of the Massachusetts House discussed the subject of Personal Interest exhaustively in 1840 and was of the opinion: 'That an interest which a Member holds in common with thousands of others could hardly be regarded as a private interest.'

Speaker James G. Blaine when the matter of personal interest came up in 1893 in the National House said: 'You

can go through the whole round of business and find upon this floor gentlemen, who, in common with many citizens outside of this House, have an interest in questions before this House. But they do not have that interest separate and distinct from a class.'

Speaker Talbot of the Pennsylvania House of 1933, in response to a parliamentary inquiry stated: 'That the right of a Member to vote where a question of personal interest was involved was a matter entirely within the conscience of the individual member.'

In conclusion the question is definitely one upon which each individual Member must satisfy his conscience. He must settle it for himself.'

The view of the able Parliamentarian is supported by many authorities. See Luce-Legislative Procedure, page 366; Mason's Manual of Legislative Procedure, Section 323 and Jefferson's Manual on Rules of the House of Representatives, 651. For the purpose of brevity, we quote only the following:

"In one or two instances the Speaker has decided that, because of personal interest, a member should not vote (V. 5955, 5958); but usually the Speaker has held that the member himself should determine this question." (V. 5950, 5951) And one Speaker denied his own power to deprive a member of the Constitutional Right to Vote." (V. 5956).

"It is a principle of 'immemorial observance' that a member should withdraw when a question concerning himself arises (V. 5949); but it has been held that the disqualifying interest must be such as affects the member directly (V. 5952)." Jefferson's Manual on Rules of the House of Representatives, section 651.

The Committee finds that this matter has been the subject of interpretation by the Supreme Court of Pennsylvania, as will be found in the case of Wilson v. New Castle City, 301 Pa. 359, pages 362 and 363. The Court saying in this case:

"The question hinges upon what is known as personal or private interest. The 'interest' in a matter which will disqualify a public official acting in an executive capacity must be certain pecuniary or proprietary acts and capable of proof. It must be direct, not contingent nor depending on an indirect benefit as that contract may or may not affect other independent transactions. A sentimental interest or a general interest is not enough."

III. The Petitioner, Presley N. Jones, in his argument asking for expulsion of the Respondent, Don Wilkinson, contends that the said Respondent violated Article 7, Section I, of the Constitution for Pennsylvania, said Article having to do with the Oath of Senators, Representatives and all Judicial, State and County Officers; and provides inter alia the following:

"And any person who shall be convicted of having sworn or affirmed falsely or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this Commonwealth."

and in support of his argument asserts that under this Section, the Respondent could be found guilty without a trial by jury; citing as his authority the opinion of the learned Chief Justice in the case of Commonwealth v. Walter, 83 Pa., 103 where the Court in construing Article 8, Section 9 of our Constitution used the following language:

"The word (guilty) is defined by our lexicographers to mean 'having guilt'; 'chargeable with a crime'; 'not innocent'; 'criminal'. Hence we say a man is guilty



of an offense when he has committed an offense. We say he has been convicted of an offense when he has been found guilty by the verdict of a jury.

Article 8, Section 9, supra, cannot be interpreted in the same manner as Article 7, Section I; and we believe the latter Article pre-suppose that a person must be convicted of perjury in Court of proper jurisdiction before being disqualified from holding any office of trust or profit within this Commonwealth. However a member violating his oath of office could be punished by the Legislature under Article 2, Section II of our Constitution, without first having been tried in Court of proper jurisdiction:

"Each House shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitations, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the Legislature of a free State. A member expelled for corruption shall not thereafter be eligible to either House, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense." Article 2, Section II.

#### CONCLUSION

Your Committee is of the opinion, from the argument above given, that the House of Representatives of the Session of 1941, has jurisdiction to punish a member for an offense committed in the 1939 Session provided that offense is one which affects the right of the member to hold office in the present term and that if such offense were established, it would be a violation of the oath of the member to the extent that the present Session of the House of Representatives would have the power to punish said member under Article 2, Section II, of the Constitution. However, we find that the matters alleged in the Petitioner's Bill of Particulars and Brief do not come within the meaning of the "personal and private interest" section contained in Article 3, Section 33 of the Constitution of Pennsylvania for the following reasons:

1--The matters alleged, namely the voting upon legislation in Act 277, approved the 28th day of June 1939, P. L. 508, affected the Respondent, Don Wilkinson, as a member of a class, to wit:--Tax Collectors.

2--The passage of said Act 277, by the House of Representatives in the absence of bribery, fraud or corruption would not make the Respondent's vote a violation of the Constitution, notwithstanding the fact that he may have received a pecuniary benefit from the results of the Act of Assembly.

We have omitted in argument any discussion concerning paragraph ten (10) of the Petitioner's Bill of Particulars which charges the Respondent with violating Section 895 of the Act of 1939, P. L. 872 of the General Assembly of Pennsylvania, making it a misdemeanor to disperse any paper purporting to be a legal process or summons of a Court of the Commonwealth of Pennsylvania. It is our opinion that charges of this nature should be made in the Court of proper jurisdiction where the Respondent would have the constitutional protection afforded Defendants charged with violating our Criminal Laws. If the Legislature undertook to try each member on matters submitted to it of this nature, the accused member might be at the mercy of a Legislature unsympathetic to his political views, which alone might be, the factor in determining

his guilt or innocence. We believe that except in case of impeachment and for crimes of bribery, perjury, corruption in office and closely related matters, the Legislature should not invade the field of Criminal Law to invoke the provisions of Article 2, Section II of our State Constitution.

The procedure asked for by the Petitioner, Presley N. Jones, is a most extraordinary one and should only be used in a case or cases where the evidence admits of no doubt as to guilt of the Respondent. To hold otherwise would turn an orderly and free House of Representatives into a chaotic and despotic body; and members might be allowed to hold office only by the will of two-third (2/3) of its membership. In this connection, we quote with approval the able argument presented in the dissenting opinion of Mr. Justice Dean in *Commonwealth v. Moir*, 199 Pa. 534:

"The time is not very remote in the past in English politics when the victorious political party, as soon as it was seated in power, promptly proceeded to cut off the physical heads of their leading antagonists and confiscate their property, it is not very remote in the future when the victorious political party will promptly proceed to cut off the political heads of its opponents where they hold office by the municipal vote of cities."

Your Committee therefore urges that the Prayer of the Petitioner that the House of Representatives authorizes the Speaker to appoint a committee of five members of the House of Representatives to inquire into the matter concerning the official conduct of Don Wilkinson and further inquire whether he is guilty of misconduct as grounds for expulsion from the House of Representatives, be refused.

EXHIBIT "A"

Printer's No. 9

#### THE GENERAL ASSEMBLY OF PENNSYLVANIA

#### FILE OF THE HOUSE OF REPRESENTATIVES

#### RESOLUTION No. 9

Session of 1941

Introduced by Mr. PRESLEY N. JONES, January 28, 1941

Referred to COMMITTEE ON RULES, February 3, 1941

In the House of Representatives, January 28, 1941.

Whereas, Don Wilkinson of 73 Bedford Street, Forty-Fort is at present a member of the House of Representatives being duly elected at the general election held November 5, 1940 from the VI Legislative District of Luzerne County and was duly sworn in as a member of the House of Representatives on its convening in January 1941 and

Whereas, The said Don Wilkinson was duly elected a member of the House of Representatives from the said legislative district at the general election held November 7, 1938 and was duly sworn in as a member of the said House of Representatives at its convening in January 1939 and

Whereas, The said Don Wilkinson while serving as a member of the House of Representatives as aforesaid introduced and sponsored legislation specifically an act defining the rights powers and duties of county tax collectors etc which act is now known as Act Number 277 approved the 20th day of June 1939 P. L. 508 and

Whereas, It is believed at the time the said Don Wilkinson introduced the bill aforesaid his purpose and intent



was to derive a private pecuniary profit for himself as a collector of such taxes he then being engaged in the collection of similar obligations and was not in furtherance of his sworn obligation as a member of the House of Representatives and

Whereas, It is believed at the time the said Don Wilkinson voted on this legislation he was engaged in negotiating contracts with school districts township and borough officers etc. for the collection of taxes thereunder for his own private interest and

Whereas, At the time of his voting on such legislation he did not state he was interested privately in such legislation in contravention of Article 3 Section 33 of the Constitution of Pennsylvania which reads

"A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to the House of which he is a member and shall not vote thereon" and

Whereas, If the said Don Wilkinson was interested and so conducted himself he would be guilty of such misconduct as would require his expulsion from the House of Representatives under the provisions of Article 2 Section II of the Constitution of Pennsylvania which reads as follows

"Each House shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence to enforce obedience to its process to protect its members against violence or offers of bribes or private solicitation and with the concurrence of two-thirds to expel a member but not a second time for the same cause and shall have all other powers necessary for the Legislature of a free State A Member expelled for corruption shall not thereafter be eligible to either House and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense" therefore be it

Resolved, That the House of Representatives authorize the Speaker to appoint a committee of five members of the House of Representatives to inquire into and concerning the official conduct of the said Don Wilkinson and to further inquire whether he has been guilty of such misconduct as could be grounds for his expulsion from the House of Representatives and be it further

Resolved, That the said committee speedily report to the House of Representatives with appropriate recommendations

Mr. Speaker, I move the adoption of the report of the Committee on Judiciary General.

On the question,

Will the House adopt the report?

Mr. PRESLEY N. JONES. Mr. Speaker, I rise to oppose the motion of the gentleman from Allegheny, Mr. Brown in the light of fair play. May I state at this time, Mr. Speaker, that the report of the Committee on Judiciary General came to my hands just five minutes before Mr. Brown took the floor. My compliments to the Committee on Judiciary General for the very lengthy, and the very fine and fair job they did. I realize they have had a very arduous task; I realize particularly that the task of the sub-committee composed of Mr. Homer Brown as Chairman, Mr. Bentley, Mr. Shaffer, and Mr. McKinney, was one that was most difficult. I realize quite well, as I believe every man in this House realizes, that the decision arrived at today for which there is a motion upon this floor for its adoption, is the most momentous and vital one in the Commonwealth of Pennsylvania from this day on.

Mr. Speaker, I presented this Joint Resolution No. 9, Serial No. 23, after serious thought and study with a staff of attorneys, and in presenting the resolution it was presented not only on behalf of my constituents of New Castle, Pennsylvania, nor the county of Lawrence, but was presented on behalf of the constituents where they

have the same method of operation in the collection of delinquent taxes, as has been carried on in Nescopeck Township, Luzerne County, in the counties of Washington, Allegheny, Westmoreland and cities of Bradford, Williamsport, Lancaster, Scranton, Allentown and a good many others, too many to enumerate at the present time.

Mr. Speaker, because I realize that the report of the Judiciary General Committee has been quite lengthy I would appreciate your kind indulgence and that of every Member of this House in order that I can convey to you exactly why I took the stand I did after careful guidance by my attorneys. This paper was filed with the Judiciary General Sub-committee some five weeks ago, and only after careful preparation from the standpoint that when the collection of delinquent taxes started in the city of New Castle, Pennsylvania a mass meeting was called to which every citizen was invited, and I would say a great majority was very much against this procedure.

Mr. Speaker, may I further call your attention to the fact that even at this act one of the greatest jurists in the State of Pennsylvania, the Honorable W. Russell Carr had ruled that P. L. 508 of 1939 was a non-retroactive measure. That same decision, gentlemen, was upheld by the Superior Court of Pennsylvania, Judge Keller presiding, in which he said,

"The clear and concise opinion of the Lower Court is hereby upheld," showing that the provisions in the act were of a non-retroactive nature, and these provisions have been used to a great extent since that decision was arrived at.

#### IN THE MATTER OF RESOLUTION NO. 9 ASKING FOR AN APPOINTMENT OF A COMMITTEE TO INQUIRE INTO THE CONDUCT OF DON WILKINSON, A MEMBER OF THIS HOUSE

This paper is filed in answer to the demurrer interposed by Don Wilkinson questioning the power and right of the legislature to investigate his conduct for acts done in a prior session of Legislature. The demurrer filed pertains to the resolution above captioned.

Since the charge as made and the Bill of Particulars filed, together with demurrer filed by Mr. Wilkinson, depend entirely on the meaning, interpretation and purport of two provisions of the Pennsylvania Constitution, for the sake of clearness, we herewith quote in full the two provisions of the Pennsylvania Constitution that are called in question:

Article VII, Section I, Pennsylvania Constitution. "Senators and Representatives and all judicial, State and County officers shall, before entering on the duties of their respective offices, take, and subscribe the following oath or affirmation: 'I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing, to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this Commonwealth, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law'

"The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of

State Officers and Judges of the Supreme Court, shall be filed in the office of the Secretary of the Commonwealth, and in the case of other judicial and county officers, in the office of the prothonotary of the County in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely, or having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this Commonwealth. The oath to the members of the Senate and House of Representatives shall be administered by one of the Judges of the Supreme Court or of a Court of Common Pleas, learned in the law, in the Hall of the House to which the members shall be elected."

Article III, Section XXXIII, Pennsylvania Constitution. "A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to the House of which he is a member, and shall not vote thereon.

#### THE OATH TAKEN BY A MEMBER REQUIRES THE MEMBER TO OBEY THE CONSTITUTION OF PENNSYLVANIA AS A WHOLE

The mere reading of the oath is the most convincing argument in support of the proposition stated above. The word "obey" is not conditioned by anything less than the Constitution of Pennsylvania in its entirety. The word "obey" found in Article VII, Section P . . . I will support and obey and defend the Constitution . . . sworn or affirmed to is a prerequisite to the taking of office. "Obey" means to obey the entire Constitution, all of its provisions and amendments, effective and binding on the member at the time of taking his oath and during his tenure of office. Much has been said by Don Wilkinson that disobedience to Article III, Section XXXIII, carried no penalty, since the penalty is not specifically contained in the Article itself—it is our contention that the penalty for Article III, Section XXXIII is contained in the oath of office, Article VII, Section I, and which oath covers all provisions relating to the office.

It can not be said that the framers of our Constitution of 1873 were unmindful of the protection owed to the public and intended that a member take an oath for each separate provision of the Constitution. Specific oaths are not required for every specific vote or for each and every specific act done in the line of the member's duty. Only one oath is administered and that is binding on the member in all his activities throughout the term. A separate oath on each and every measure is not required. The one oath is administered and binds the legislator in all of his official duties. The argument advanced in the demurrer i. e., "The enforcement of Article III, Section XXXIII lies in the conscience of the individual member," is untenable. The purpose of the insertion of Article III, Section XXXIII, was to protect the public against the conscienceless member. The conscientious will religiously observe the rule regardless of its being incorporated into the organic law or any other law. The framers of the Constitution knew that many men elected to the Legislature regarded the public office as a public trust, but there would be others who would possess a facile conscience and in order to protect the public, it was necessary to insert this provision in the organic law (Article III, Section XXXIII) and Require the taking of oath (Article VII, Section I) that carries with it definite penalties for its violation.

#### THE REMOVAL OF A PUBLIC OFFICER FOR MISCONDUCT IN A PRIOR TERM

The weight of authority is to the effect that misconduct of a public officer in a prior term may constitute grounds for removal or impeachment. Decisions of Courts that hold the above state quite definitely that re-election does not condone the offense. This is especially true where a man is his own successor. Misconduct in a prior term such as contempt for the authority of the speaker, disorderly conduct on the floor, or offenses against the House that are disorderly, a succeeding House would not inquire into but offenses that are distinctly against the public, as those alleged in the complaint, the weight of authority favors the view that re-election does not condone such offenses and the separate entity of the succeeding House does not act as a bar.

The justice and the reasoning in support of the removal of officers in a prior term is well expressed in the case found in State v. Welsh, 109 Iowa, 19, 79 N.W. 369;

"The very object of removal is to rid the community of a corrupt, incapable, or unworthy official. His acts during his previous term quite as effectually stamp him as such as those of that he may be serving. Re-election does not condone the offense. Misconduct may not have been discovered prior to election, and, in any event, had not been established in the manner contemplated by the statute. The defendant was entitled to the office until his successor was elected and qualified. . . . Being his own successor, the identical officer continued through both terms. His disqualification to continue in particular office results from the commission of some of the prohibited acts during his incumbency . . . This has been the uniform rule in impeachment trials, where, coupled with removal from office, is the penalty of disqualification to hold any office of honor, trust, or profit under the State. In New York, Barnard, J., was impeached during his second term for acts committed in that previous. The same was true of the impeachment of Judge Hubble, of Wisconsin, and Governor Butler, of Nebraska . . . For many purposes each term of office is separate and entire. This is especially true with respect to the obligation of sureties. But there is no reason for so holding as to the incumbent. Being his own successor, there is no interregnum. His qualification marks the only connection between his term. The commission of any of the prohibited acts the day before quite as particularly stamps him as an improper person to be intrusted with the performance of the duties of the particular office as those done the day after."

Our reason for quoting this Iowa case is that much of the language and reasoning there used is quoted with approval by our own Supreme Court in Throop Borough's School Directors 298 Pennsylvania, Page 457.

In the paper filed by Mr Wilkinson great reliance is placed on Fudula's Petition 297, Pennsylvania, 364. In the Fudula case, where it was decided that a school director could not be ousted for misconduct during a prior term, it should be remembered that a school director who is ousted under the School Code is only barred from holding office for five (5) years; Section 218 of School Code 24, Purdon's Statutes, 181. In the case of a school director being ousted under the School Code, there is no permanent disqualification from holding a public office or trust. Under Article VII, Section J which we will discuss later, we merely mention at this time in making this distinction, that the disqualification provided as a penalty is "forever holding an office of public profit or trust."

An examination of cases later than Fudula's Petition place a very definite limitation on that case. On Page 458 of the case of Throop Borough's School Directors 298, Pennsylvania, 453, the Court said:

"Offenses committed during a previous term are generally held not to furnish cause for general removal, but where a removal with it carries a disqualification to hold office, in the future, the rule is otherwise. 46 C. J. 96."

In this statement, the Court admits that where the disqualification to hold office is a permanent one the rule of the Fudula case does not apply, but our Supreme Court by the adoption of the language of the case of State v. Welsh, Supra, which indicates that where there is a permanent disqualification for holding office that misconduct during a prior term is grounds for removal. At page 457, we find them using the language that is in line with the weight of authority, namely:

"The very object of removal is to rid the community of a corrupt, incapable, or unworthy official. The commission of any of the prohibited acts the day before quite as particularly stamps him as an improper person to be intrusted with the performance of the duties of the particular office as those done the day after. The fact of guilt with respect to that office warrants the conclusion that he may no longer with safety be trusted in discharging his duties."

Our own Supreme Court in adopting the language of the case cited above clearly enunciated the rule and the reason for the application of the rule.

**"BE FOREVER DISQUALIFIED FROM HOLDING ANY OFFICE OF TRUST OR PROFIT WITHIN THIS COMMONWEALTH"**

We wish at this time to call attention to the admission made in the paper filed by Mr. Wilkinson at Page 4. This admission deals with the intent of the framers of the Constitution and their attitude toward Article III, Section XXXIII. We herewith quote from the paper filed by Mr. Wilkinson:

"It is further interesting to note that when a question arose in the committee to whom this article is delegated, concerning a sanction or penalty for a violation, it was mentioned that the committee on sanction would provide for the penalty."

In connection with this admission, we call attention to Paragraph A, Page 3 of Mr. Wilkinson's Brief, to wit:

"The enforcement of this provision lies in the conscience of the member of the General Assembly and the House of Representatives has no power to enforce it. It contains no penalty and no sanction is contained in the Constitution."

The first admission in their paper clearly indicates that the framers of the Constitution did not intend that so vital a provision as Article III, Section XXXIII, was to be left to the conscience of the individual member. This admission on their part as to what transpired when it was being discussed indicates what is the truth, that the framers of the Constitution felt that this was a vital provision and that penalties should be provided for its violation.

We contend not only did they intend penalties to be provided but in the oath of office provided the sanction and carried out that intention.

In the Oath of office it is provided that:

"Any person who shall be convicted of having sworn or affirmed falsely shall be guilty of perjury and be forever disqualified from holding any office of trust or profit within this Commonwealth."

In the oath it is provided that:

"Any person having violated said oath or affirmation shall be guilty of perjury and be forever disqualified from holding any office of trust or profit within this Commonwealth."

These provisions, supra, read without any forced interpretation, but interpreted reasonably and fairly indicate beyond all doubt that sanctions were provided for the violation of Article III, Section XXXIII, or any other provision violated in the Pennsylvania Constitution.

If the offending member is found guilty by a jury of having sworn falsely, he is forever disqualified from holding any office of trust or profit. If it is determined by the Legislature or any other Court in quo warranto proceedings of having violated said oath or affirmation, he is disqualified from holding any office of trust or profit. We call the attention of the members of his committee that a conviction of crime is not a condition precedent to either the Legislature or the Courts preventing a member, who has violated his oath, from forever holding an office of trust or profit. In support of the above statement we herewith quote at length the case of Commonwealth v. Walter, 83 Pennsylvania, 105, in which it is held, on matters involving a similar provision, the conviction is unnecessary to give jurisdiction. It was not an essential preliminary at common law. The Commonwealth has the right to be allowed to enforce her rights without being driven into the criminal courts as a private prosecutor.

Justice Paxton at Page 107:

"Under the Act of June 14th, 1836, the writ of quo warranto is the appropriate remedy where any person shall usurp, intrude into or unlawfully hold or exercise any county or township office within the respective county; or where any person, duly elected to any such office, shall have done, suffered or omitted to do any act, matter or thing whereby a forfeiture of his office shall be created. It is not pretended that we have any statute which declares a forfeiture of either of the offices aforesaid by reason of any of the acts charged in the information. But the 9th section of the 8th article of the Constitution provides that 'any person who shall, while a candidate for office, be guilty of bribery, fraud or wilful violation of any election law, shall be forever disqualified from holding any office of trust in this Commonwealth; and any person convicted of wilful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years.' The object of this provision in our fundamental law is manifest. The frequency and extent of election frauds were beginning to awaken serious apprehension for the future unless promptly checked. A fraud upon the ballot is a crime against the nation. Hence it was that the framers of the Constitution sought to arrest the evil by embodying in the fundamental law the provision referred to. It is our duty to give it such construction as will carry out the intent apparent on its face, and the object which the people had in adopting it."

"It will be seen that by the express and clear language of the section, any person who shall while a candidate for office, be guilty of any of the prohibited acts, is ipso facto forever thereafter disqualified from holding any office of trust or profit in the Commonwealth. It follows that if this defendant while a candidate for the office of High Sheriff of Butler County,

was guilty of 'bribery, fraud, or a wilful violation of any election law,' he is forever disqualified from holding his present office or any other of trust or profit."

"We have here an allegation on the part of the Commonwealth of the existence of certain facts which, if true, amount to a disqualification. Whether the defendant has committed the alleged acts would seem to be a proper subject of inquiry upon a quo warranto. But it was urged on behalf of the defendants, that it was not the doing of the prohibited acts which disqualified, but the being guilty of them; that such guilt could only be legally ascertained by a criminal prosecution in the Quarter Sessions where the defendant would be tried by a jury of his peers. This was substantially the ground upon which the Court below quashed the writ."

"We are to presume that the framers of the Constitution used the word 'guilty' in its ordinary or popular signification. That they had in view the distinction between being guilty of an offense and being convicted of an offense is clear, from their employing both words in the section referred to. In the concluding paragraph thereof they say 'any person convicted of wilful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely, for a term of four years.' The word 'guilty' is defined by our best lexicographers to mean "having guilt"; justly chargeable with a crime; not innocent; criminal.' Hence we say that a man is guilty of an offence when he has committed such offense. We say he has been convicted of an offence when he has been found guilty by the verdict of a jury. We need not elaborate so plain a proposition. Be it was strongly urged on behalf of the defendant that great injustice would be done him if the question of his guilt was not first settled in the Quarter Sessions; that he is really charged with crime, and of such a nature as to blacken his reputation. We do not see the hardship. There are but two roads. The one leads to the penitentiary in case of conviction, the other merely to a disqualification from holding office. If we send him upon the latter path, surely he has no just cause of complaint. It is his right to have the issues of fact raised upon the quo warranto tried by a jury. He has therefore a trial by his peers in the latter proceeding. An adverse verdict deprives him of neither life, liberty nor property. It merely prevents his holding an office which he would have no right to hold by reason of disqualifying acts committed by himself. The effect of requiring a previous conviction in the Quarter Sessions would be to give the Defendant two jury trials; for such conviction could not deprive him of his right to a jury trial in the quo warranto. So that by the time of the Commonwealth had followed the Defendant to the end of his sinuous path he contest might become of little real importance, and the victory, if obtained, a barren one. The construction claimed for this section of the Constitution, if adopted, would render the said section of little practical value."

Again we call the attention of the committee to that of the case of Throop Borough's School Directors, 293, Pennsylvania 453, Pages 453, 459:

"Offenses committed during a previous term are generally held not to furnish cause for general removal, but where removal carries with it a disqualification to hold office in the future, the rule is otherwise. 46 Corpus Juris 96."

To hold there is no penalty is to take the word "obey" out of the oath. From the authority cited above in Commonwealth v. Walter, not only does the Legislature have the power to inquire into a legislator's past conduct, but if the facts are established by competent evidence at any

court of this Commonwealth, determined as a fact that he had violated his oath, he could be removed by quo warranto.

In conclusion, we state that Mr. Wilkinson evidently thought there was merit in this contention because in the case of Mrs. Estelle Brown vs. Don Wilkinson and the New Castle School Board at No. 1 December Term, 1940, Equity Court of Lawrence County, the point was raised about his right to hold the public office of delinquent Tax Collector, and Mr. Wilkinson resigned.

#### DO THE ACTS SET FORTH IN THE BILL OF PARTICULARS DISCLOSE A PERSONAL OR PRIVATE INTEREST?

The true test to be applied in determining whether the acts complained of were of a personal or private nature within the purview of Article III, Section XXXIII, would be an examination of the Acts cited in the Bill of Particulars involved in this case. Do the acts complained of in the Bill of Particulars and sustained by competent evidence show a personal or private interest on the part of Don Wilkinson? In determining a personal or private interest, the true test as we said in the beginning, is to be found in considering the acts complained of.

The Bill of Particulars in Paragraph 7 states that the Act of 1939 P. L. 508, made it possible for tax collectors to collect fifty cents (.50) for distraint, one dollar (\$1.00) for levy and ten cents (.10) per mileage and that prior to its passage there were serious legal questions as to the legality of this cause, Paragraph 8 of the Bill of Particulars states:

"That the passage of the Act of 277, 1939, resulted in great profit to all delinquent tax collectors in that, provision relating to attachment of wages were made mandatory on employers. The word 'shall' being used instead of the word 'may', inured to the profit of all tax collectors by making a penalty on employers mandatory.

Paragraph 10 of the Bill of Particulars states:

"That the said Don Wilkinson has intimidated, coerced the tax payers of the School District, by dispersing a paper that purports to be a legal process or summons of a court of the Commonwealth of Pennsylvania is unlawful and contrary to the Act of 1939, P. L. 872, Sec. 895, paragraph G, and a copy of said paper is hereto attached and marked exhibit "A" and made part of the Bill of Complaint."

As to whether or not Mr. Wilkinson thought about a personal or private interest is part of his statement made to Charles Snyder, a former employee of Mr. Wilkinson's is found the following affidavit:

I, Charles Snyder of Dallas, Luzerne County, Pennsylvania, have lived in Luzerne County all my life. I have known Don Wilkinson for twelve years, knowing that he operated a tax collecting agency for the last ten years.

I solicited a position with him before the primary election of 1938. Mr. Wilkinson came to my home with campaign literature and asked me to support him for General Assembly, telling me that in return for my efforts he would be able to give me a position immediately, if he were nominated.

I was sent to Williamsport for a two weeks instruction for which I received no compensation. In Williamsport the collection was made on a percentage basis. Ten percent (10%) was received by Mr. Wilkinson and the other Ten percent (10%) was divided between the men working on the collection of taxes. Approximately, Forty-seven Thousand Dollars (\$47,000.00) was collected.

After working for Mr. Wilkinson for some time, he told me he intended to introduce a Bill before the House which would make the collection of taxes much easier and more profitable. Some time later Mr. Wilkinson handed me to read a copy of House Bill 979, which he had introduced in the Assembly. After we talked about House Bill 979, Mr. Wilkinson said that it would make the attachment of wages for taxes legal. Mr. Wilkinson said all other Acts read that in the matter of wages that the Firm 'may' deduct from the wages of their employees but this Act compelled the Firms or corporations to make the deductions from the wages of their employees and imposed a penalty for not making the deductions.

I, hereby, swear that the facts contained herein are true and correct.

CHAS. SNYDER.

Sworn and subscribed to before me,  
a Notary Public, in and for the county  
of Dauphin, Pennsylvania, this tenth  
day of June, 1941.

CARROLL B. PRICE

Notary Public

My Commission Expires March 9, 1943.

Again we have Mr. Wilkinson's idea on whether he had a personal or private interest when we refer to the Bill of Particulars in the following affidavit:

I, S. Emerson Harris, of 227 Linden Street, West Pittston, Pennsylvania, of my own free will and accord without any inducements or promises make the following statement relative to my employment with Don Wilkinson, as a Deputy Tax Collector. Mr. Wilkinson is a member of the Pennsylvania Assembly from the Sixth Legislative District, Forty-Fort, Pennsylvania.

I have known Mr. Wilkinson for three years and I met him through the Rod and Gun Club of the Sixth Legislative District and I was employed by him through the Chairman of the Republican Party of the Sixth Legislative District, Peter Clark.

I started to work for Mr. Wilkinson in July of 1940, and had to serve two weeks apprenticeship without pay in order to qualify as a Deputy Tax Collector. Mr. Wilkinson required this of all his help. My apprenticeship was served at Allentown, Pennsylvania, and that is also where my apprenticeship and job began. From Allentown I was sent to Hazleton, Pennsylvania. I worked there about a month and then my contract was terminated two weeks before the election of November 1940. Due to Mr. Taylor being the hotel owner and member of the School Board in Allentown, six of the employees were told by Mr. Wilkinson to rent an apartment in the hotel which amounted to One Hundred Eighty Dollars (\$180.00) a month, for which each man had to pay his proportionate share.

We collected the 'cream of the town' in taxes first. The rest of the town was worked but not too much time was wasted on it. This was done upon instructions from Mr. Wilkinson. Instructions from Mr. Wilkinson were to make sure that the One Dollar Sixty Cents (\$1.60) cost were collected. That was the main object of the collection of these taxes. According to Mr. Wilkinson's instructions were that in going over the town we were to spend most of our time on the tax payers who we thought were able and would pay and not waste much time on those we thought would not answer the Summons. The office

of Mr. Wilkinson kept a record of the streets on which the employees were working in order that if any of the residents voluntarily came in to pay from the streets which were being worked at that time, they would collect the One Dollar Sixty Cents (\$1.60) cost, taking it for granted that the five day Summons had already been served before they made the voluntary payment. In the instructions given to me, I was not to collect at the residence for that would eliminate the cost but often times the costs were collected even when the taxes were paid at the residence, even though the cost were illegally obtained in this manner and to Mr. Wilkinson's knowledge. Any taxpayer that ignored the levy made on his household goods was not prosecuted in any manner. Taxes were collected from those who were willing to pay the taxes and costs and those who disregarded the levy were never bothered at any later date for collection of those taxes and they were exonerated from paying. We left many delinquents exonerated when we left town.

We were instructed to use a five day period in which people were to appear at the Tax Office to pay these taxes but at the same time Mr. Wikinson told us that these five day Summons were not legal, that the law called for a thirty day period before they must appear. Mr. Wilkinson told us that we must use this five day Summons so that they would appear early and we would not have to waste any time and that taxes must be collected in a short time so that he could move on to another job. The object being that he could collect the One Dollar Sixty Cents (\$1.60) cost without much trouble and with the least amount of expense.

All instructions were the same for every job done regardless of what community we were working in, the main object was to have the greatest number of people pay without many questions being asked by them. He told us that if this five day Summons were questioned, he didn't think it would or could stand a Court test and he said he had approved and furthered the lobbying in Harrisburg to get this Law passed.

I was on a flat salary of Forty Dollars (\$40.00) a week at both Allentown and Hazleton, out of which I paid my own expenses and at no time were there any deductions made for Workmen's Compensation, Unemployment Compensation or Old Age Pension.

On the Luzerne County Institution Tax, the name of H. Berkheimer was substituted for the name of Mr. Wilkinson, who is elected to office from that particular County and District, who did not want his name connected with the collection of these delinquent taxes because of the effect it would have on his political future. Russell Lohman was Mr. Wilkinson's brother-in-law and manager of his western activities in the delinquent tax collection in that section of Pennsylvania. Mr. Wilkinson has been in this delinquent tax collection business for a period of more than ten years.

Mr. Wilkinson told us often, that he had spent quite a bit of time in Harrisburg to pass Act 277 in the Session of 1939, which helped him in the collection of delinquent taxes. He also said he wanted to spend one more term in the Assembly so that he would be able to pass legislation that would abolish local tax collectors and centralize the collection of taxes in each county. He thought, he said, with the passage of the Bill and the collecting organization he had built up and also with the aid of the Bonding Company, he would be able to secure and hold all

those jobs in each county and that it would be a 'gold mine' for him and give him a very lucrative income. He stated that if he were returned to the Legislature and could get his Bill passed that we, all of his employees, would receive more money, have better jobs and be set for quite some time to come.

I have read the above statement and swear it is true and correct as dictated by me according to the facts known by me.

S. EMERSON HARRIS.

Sworn and subscribed to before me, a Notary Public, in and for the county of Dauphin, Pennsylvania, this tenth day of February, 1941.

CARROLL B. PRICE  
Notary Public

My Commission Expires March 9, 1943.

As to whether Mr. Wilkinson thought he has a personal or private interest in the Bill we again call attention to the following affidavit as to what Mr. Wilkinson said to a former employe of his, Morris M. Lloyd:

I, Morris M. Lloyd, of Truckville, Luzerne County, Pennsylvania, have known Don Wilkinson some twenty years and know that he operated a collection agency for collecting taxes from municipalities and Bonding Companies for the past ten years.

On June 26, 1939, I accepted employment with Mr. Wilkinson. On the twenty-seventh day of June, I rode from Wilkes-Barre, Pennsylvania to Bethlehem, Pennsylvania with Mr. Wilkinson at which time he gave me to read a copy of House Bill 979, the Bill later passed as Act 277 and was signed by the Governor on June 20, 1937. Mr. Wilkinson said to me that this Bill would improve his business as it made legal all points of his tax collecting business and he was very jubilant as he said he had gotten this bill passed as this Bill would make legal the charges and mileage which he was then collecting. This made legal his collection of fifty cents (50c) for distraint, One Dollar (\$1.00) for the levy and ten cents (10c) per mile.

This was my first day employed by Mr. Wilkinson as I was to work for two weeks gratis and pay my own expenses while learning the business. I worked for several weeks in Bethlehem, Pennsylvania becoming familiar with the business and was then sent out to make contacts with tax collectors and School Boards to secure collections. I covered the entire State and among other towns, contacted the School Board at New Castle, Pennsylvania, with his Mr. Lohman, who is also a brother-in-law of Mr. Wilkinson. I, also, worked at Beaver, Pennsylvania, where the collection was made for the Bonding Company.

I worked until November 23, 1940, for Mr. Wilkinson and collected in most of the larger towns in the State, both for the School District, the tax collectors and some jobs for Bonding Companies.

Our average collections were between fifty per cent (50%) and sixty percent (60%) of the delinquent accounts running in some of the Townships as high as seventy-five percent (75%) to eighty-eight percent (88%).

I hereby swear that these facts contained herein as true and correct.

MORRIS M. LLOYD.

Signed and sworn to before me, a Notary Public, in

and for the county of Dauphin, Pennsylvania this tenth day of February, 1941.

CARROLL B. PRICE  
Notary Public  
Commission Expires March 9, 1943

In our judgment, if consideration is given to the specific acts complained of, the mind of any unbiased person will be irresistibly drawn to one conclusion, namely, that such interest as these acts disclose is not remote, incidental or speculative but the interest disclosed by these acts is pecuniary, direct, certain and fixed.

On Page 3, Paragraph 11b, it is stated in the paper filed by Mr. Wilkinson, i. e., "The interest referred to by this section as a personal or private interest is an interest which no other person has or possesses. The section does not apply to interest which is the same as others have or an interest which a class of people have in the legislation." With the statement that, the interest, which no other people possess, we flatly disagree. If this statement is not the limit of absurdity, it is because absurdity knows no limitation. To hold that an individual who had a personal or private interest must hold that to the exclusion of all the world, no one can defend. To avoid punishment that would be necessary is that the Legislator, having the personal or private interest, would only need to take in another lucre-minded member as a partner in the venture and divide the spoils with him. Don Wilkinson's statement must fall of its own weight.

Mr. Wilkinson in voting and sponsoring the Act of 1939, was motivated by a pecuniary, selfish and monetary profit to himself which he could reap from the passage of the bill. In the legislature of 1939, Mr. Wilkinson's interest differed from any other legislator in that session. It is true that there may have been other tax collectors in that session. But in the session of 1939, there was no other member who was engaged in the business of collecting delinquent taxes. There was no other member who held himself out of the public and the various divisions in our Commonwealth as an expert tax collector. In the session of 1939, there was no other member, who already was engaged in the business of collecting delinquent taxes and who had a force of skilled employees working for him; there was no other member in that session to whom the passage of that act meant hundreds of thousand of dollars. In our own County of Lawrence, Don Wilkinson, after the passage of the act of 1939, entered into a contract with the school district of the City of New Castle for the collection of delinquent per capita taxes. Under the said contract the possible commissions and profits to Don Wilkinson was over \$145,586.07. This is just one of the scores of contracts entered into by Don Wilkinson with various taxing divisions in our commonwealth. We cite this example because it is the one with which we are most familiar. After Mr. Wilkinson entered into this contract, a bill in equity was filed in the Common Pleas Court of Lawrence County at No. 1 Deecember Term, 1940, Equity Court, asking that Don Wilkinson be enjoined from collecting any taxes under the contract. One of the grounds alleged in the bill for an injunction was that Don Wilkinson violated his oath of office by voting on the Act of 1939 and therefore, was disqualified from holding an office of public trust within this Commonwealth. After Don Wilkinson was served with the said "bill in equity", he resigned as tax collector. His conduct was not the conduct of an innocent man, but



the conduct of one who feared the penalties prescribed for his unscrupulous acts.

What is a personal or private interest within the meaning of Article III, Section XXXIII, is defined by our court in *Wilson v. City of New Castle*, 301 Pa. 359. Third class city law provides as follows, "A member of council who has personal or private interest in any measure or bill proposed or pending before the council, shall disclose the fact to Council and shall not vote thereon nor take any part in the discussion of the same. The language of the act construed in the *Wilson* case is identical to the article of the constitution in question. At page 362 of the *Wilson* case, the Court said, "The question hinges on what is known as 'personal or private interest'". The "interest" in a matter which will disqualify a public official acting in an executive capacity must be contained, pecuniary or proprietary, and capable of proof. It must be direct not possible or contingent, nor depending on an indirect benefit, as that the contract may or may not affect other independent transactions. A sentimental interest or a general interest is not enough. In short, "interest" must be reduced to a financial one coming directly to the public officer or to the company of which he is an officer. A contract would be manifestly against public policy if it were awarded by a person having a direct personal interest in pecuniary return from the contract . . . It must be a more direct personal interest, weighed in terms of money coming from the contract as such.

It is submitted that Don Wilkinson's act comes within the condemnation of the above rule. Prior to the act of 1939, there was some question as to whether or not a tax collector could include costs in his distress for collection. The Attorney General of Pennsylvania had delivered an opinion and many municipalities and taxing divisions took the position that the act of 1935 which abolished imprisonment for taxes, abolished as well the right for the collector to levy for costs in addition to the delinquent tax. Prior to the act of 1939, the School Code provided that a delinquent tax collector could not receive a greater salary or commission than that paid the regular collector. Don Wilkinson was engaged in a delinquent tax collection business. He contracted with many municipalities and taxing divisions to collect delinquent per capita tax and other taxes. Such was the status of the law when Don Wilkinson entered the legislature in 1939. By the act of 1939, Don Wilkinson removed all doubt from the statute and made it mandatory that a delinquent tax collector be allowed the cost of a constable when he levies for delinquent taxes. Thus, Mr. Don Wilkinson would be entitled to approximately \$1.60 on all levies and \$5.00 if a sale should prove necessary. Surely, this was a direct pecuniary interest to Mr. Wilkinson who would be enabled by this act to reap hundreds of thousand of dollars in profit which he could not do before the passage of the act. If there is any doubt in this committee still, that Don Wilkinson did not have a private and pecuniary interest in that act of 1939, we intend to show by competent evidence that Mr. Wilkinson solicited and made known to many people that the act of 1939 would make him wealthy and the few friends that would work with him would be rewarded and that all he needed was one more term in the legislature and that he could retire.

Don Wilkinson was elected as a legislator for Luzerne County. As a legislator, he was entrusted with the right to represent his constituents not only in that district but

in Pennsylvania. As a legislator, he was a quasi-fiduciary entrusted with a power but a limited power. A power to be used only for the best interest of the people who entrusted him with that power. When there come a time that Don Wilkinson acted not because he was motivated by the best interest or what was best for his constituents but because he was motivated by what was pecuniary best for his own interest, common prudence directed that Mr. Wilkinson abstain from breaching the trust and abstain from using the power vested in him by his cestuis, the people of Pennsylvania, the voters of his district, to sub-serve an interest of his own which was contrary to the interest of his constituents. It is horn book law that a trustee who has an adverse interest can not act in his trust. Surely, the rule of law, which protects a cestui against an unscrupulous trustee in private matters applies equally as well the cestui is the people of Pennsylvania, and the trustee is their duly elected delegate to the legislature.

#### CONCLUSION

#### THE LEGISLATURE HAS THE POWER TO INVESTIGATE AND HOLD A MEMBER ANSWERABLE FOR HIS ACTS

The vice of a member having a personal and private interest in a Bill is well illustrated by the Act of 1939, P. L. 508, by Don Wilkinson, who admits playing a prominent part in securing its passage. Other members of the Assembly, having a lesser knowledge, would look upon Don Wilkinson as a disinterested expert. Some other members of the Assembly would look upon the measure as meritorious and not figure on the Bill to use Don Wilkinson's graphic language, "a gold mine", for delinquent tax collectors. Delinquent tax collection as far as this Bill was concerned could well become a racket. Is it a sufficient answer, when faced with the clear facts of misconduct, to say to the legislative committee, "So what"?

In addition to the provisions of Article VII, Section I, quoted throughout the brief, we call attention to another provision of the Constitution, which gives the legislature the right to oust a misbehaving member.

Constitution of Pennsylvania, Art. II, Sec. XI Section XI. Powers of each branch; Expulsion "Each House shall have power to determine the rules of its proceeding and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitation, and, with the concurrence of two-thirds to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the Legislature of a free State. A member expelled for corruption shall not thereafter be eligible to either House, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense."

We are of the opinion that the oath of office administered to a member, "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution", means exactly what it says and the member taking such oath is bound to observe all the provisions of the Constitution and by no possible interpretation can the member pick out what provisions he will observe and what provisions he will defy. Further, it was never intended by the framers of the Constitution that the people of



Pennsylvania were to be protected by so unreliable a safeguard as the elasticity of the individual conscience of the member. Any conscientious member who violates any of the prohibitions embodied in our Organic Law for the protection of the public, does so at his peril. The penalty provided for the protection of the public, "be forever disqualified from holding any office of trust or profit within this Commonwealth", may seem to some severe, but it is to be remembered that nobody suffers the penalty unless he offends against the provisions.

Can the reasoning of Don Wilkinson be supported under law or justice when the very purport of his position allows a member to reserve his venal conduct to the close of a Session, before all the facts and his machinations can be discovered—knowing that the close of the Session is a bar to all further inquiry?

Mr. Speaker, I realize quite well that my presentation was quite lengthy and I can only express my thanks for your consideration. As I said before I feel that the motion of the Committee on Judiciary General in respect to Resolution Number 9 is of very, very vital importance, because it will set an example for what may be very necessary in the future to the Commonwealth of Pennsylvania. It seems to me, gentlemen, if we are to build structures that are to withstand the elements in the future it is necessary that we should have the courage of our convictions in order that the structures will hold together.

I do not want to seem unfair to any man in this House, particularly to the gentleman that this resolution was filed against. Mr. Speaker, I therefore feel that the report of the Committee on Judiciary General relative to Resolution Number 9 is unfair and unjust to the gentleman from Luzerne, Mr. Wilkinson. In the short time in which I had to read the report, namely about four or five minutes, I do feel that justice has been done to Mr. Wilkinson to this degree. The question still remains, he is still guilty, and the ruling of the Committee on Judiciary General is to the effect that there is no ground upon which a member can be expelled. Therefore the honorable gentleman from Luzerne, Mr. Wilkinson, if he is not guilty, should be given every positive right to face a committee of five which I requested in order to show his facts and figures and submit to a duces tecum in order that we can clear up the situation entirely as to whether he is guilty or not.

Mr. Speaker, I submit to you that the motion to refuse the resolution is unfair to Mr. Wilkinson and I ask that you vote this motion down, and, Mr. Speaker, I ask for a roll call.

Mr. BROWN. Mr. Speaker, I sincerely request that the Members vote "aye" on this motion. You have heard two lengthy reports and I am not going to discuss them, because we have filed our written report. I wish the Members would take the written report and read it and study it, and they will see that the committee has been honestly fair to all concerned. We have stated that it would be unwise for a free Legislature to take action of this kind in expelling a Member from the House unless it involved a case of impeachment for corruption, bribery or fraud in the passage of the act through the House. Not once did Mr. Jones or anybody in his behalf present any evidence to the committee of any corruption, bribery, fraud, collusion or connivance in any manner which would absolutely give us jurisdiction in this

House. We have advised Mr. Jones, and we have so stated in our brief that these matters should go into the criminal court where a man has the protection of the ordinary safeguards of the Constitution placed around him.

I sincerely ask all of you to vote "aye" and adopt the report of the Committee on Judiciary General.

On the question recurring,

Will the House adopt the report?

The yeas and nays were required by Mr. JONES and Mr. BROWN and were as follows:

## YEAS—190

Achterman,	Gates,	McClanaghan,	Sarge,
Auker,	Gerard,	McClester,	Sarraf,
Baker,	Gillan,	McDowell,	Scanlon,
Balthaser,	Gillette,	McFall,	Schwab,
Baughner,	Goodwin,	McGrath,	Serrill,
Bentley,	Gross,	McIntosh,	Shaffer,
Bentzel,	Gryskewicz,	McKinney,	Shaw,
Boles,	Gyger,	McLane,	Shepard,
Boney,	Habbyshaw,	McMillen,	Simons,
Boorse,	Haberlen,	McSurdy,	Skale,
Bower,	Haines,	Melchiorre,	Snyder,
Bradley,	Hall,	Modell,	Sollenberger,
Brown,	Hamilton,	Monks,	Sorg,
Brunner, C. H.,	Hare,	Mooney,	Stambaugh,
Brunner, P. A.,	Harkins,	Moran,	Stank,
Burns,	Harmuth,	Moul,	Stine,
Cadwalader,	Harris,	Muir,	Stockham,
Chudoff,	Heatherington,	Munley,	Tarr,
Cochran,	Helm,	Nagel,	Tate,
Cohen, R. E.,	Hering,	Nunemacher,	Taylor,
Cook,	Herman,	O'Brien,	Thompson, E.,
Cooper,	Hewitt,	O'Connor,	Thompson, R.,
Cordier,	Hirsch,	O'Dare,	Trout,
Corrigan,	Holland,	O'Mullen,	Turner,
Croop,	Huntley,	O'Neill,	Van Allsburg,
Cullen,	Imbrie,	Owens,	Verona,
Dalrymple,	James,	Petrosky,	Vincent,
Dennison,	Jefferson,	Pettit,	Vogt,
DiGenova,	Keenan,	Polaski,	Voldow,
Dix,	Kenehan,	Polen,	Voorhees,
D'Ortona,	Kiline,	Powers,	Wagner,
Duffy,	Knoble,	Prosen,	Watkins,
Early,	Komorowski,	Rank,	Weingartner,
Elder,	Krize,	Rausch,	Weiss,
Elliot,	Lee, E. A.,	Readinger,	Welsh, E. B.,
Ely,	Lee, T. H.,	Reagan,	Welsh, M. J.,
Falkenstein,	Lelsey,	Reese, D. P.,	Williams,
Finestone,	Leonard,	Reese, R. E.,	Wlinner,
Finnerty,	Lesko,	Regan,	Wolf,
Fiss,	Levy,	Rhea,	Wood, L. H.,
Fleming,	Leydic,	Riley,	Wood, N.,
Fletcher,	Lichtenwalter,	Rooney,	Woodring,
Flynn,	Longo,	Rose, S.,	Woodside,
Foor,	Lovett,	Rose, W. E.,	Wright,
French,	Lyons,	Rosenfeld,	Yeakel,
Gallagher,	Malloy,	Royer,	Yester,
	Maxwell,	Rush,	Young,
			Kilroy, Speaker.

## NAYS—1

Jones, P. N.,

So the question was determined in the affirmative and the report was adopted.

Mr. PRESLEY N. JONES. Mr. Speaker, I am sorry but I attempted to gain your attention and the attention of the Members of the House. Mr. Speaker, I respectfully suggest that the vote be made unanimous.

The SPEAKER. If the House will give its unanimous consent the vote will be made unanimous. The Chair hears no objection and the vote is 191 to nothing.

## RESIGNATION FROM CONFERENCE COMMITTEE ON SENATE BILL No. 253

The SPEAKER laid before the House the following resignation which was read by the Clerk.

June 2, 1941.

Honorable Thomas J. Callahan  
Chief Clerk, House of Representatives  
Harrisburg, Pennsylvania.

Dear Mr. Callahan:

I hereby tender my resignation as a member of the Conference Committee on Senate Bill No. 253 as of May 20, 1941.

Very truly yours,  
MARTIN C. MIHM.

CONFERENCE COMMITTEE ON  
SENATE BILL No. 253

The SPEAKER. If there is no objection the Chair will name the gentleman from Allegheny, Mr. Sarraff, in place of the gentleman from Allegheny, Mr. Mihm, as a member of the Conference Committee on Senate Bill No. 253, Printer's No. 152. This committee was appointed last week. The Chair hears no objection and Mr. Sarraff is substituted for Mr. Mihm.

PERMISSION TO ADDRESS HOUSE

Mr. BROWN asked and obtained unanimous consent to address the House.

Mr. Speaker, during our debate in presenting the report on House Resolution No. 9, I omitted in my remarks to pay due respect to the Parliamentarian of this House, the Honorable S. Edward Moore. I would like the record to show that in the matter we had under discussion he very ably assisted us, and without his assistance no doubt we should not have found some of the precedents that we have embodied in our report.

GOVERNOR OF PORTO RICO INTRODUCED

The SPEAKER. We have with us this evening a distinguished Pennsylvanian, the Governor of Porto Rico, the Honorable Guy J. Swope. If there are no objections the Chair will call upon him for a few remarks. The Chair hears none. The Chair presents to this House, the Governor of Porto Rico.

REMARKS BY GOVERNOR GUY J. SWOPE

HON. GUY J. SWOPE. Mr. Speaker and Members of the House of Representatives of the Commonwealth of Pennsylvania, I bring you greetings from the easternmost outpost of the United States of America. In the name of the two million souls who inhabit that beautiful little island at the juncture of the Atlantic with the Carribean, I bring you greetings from the youngest parliamentary body in the American Commonwealth, and yet at the same time from the oldest community which now enjoys government under the American flag.

I am deeply moved emotionally to be asked by your Honorable Speaker to say a few words to you who as a continuation represent one of the very oldest of parliamentary bodies on the North American continent. We of Porto Rico are proud to be called fellow-American, brothers with you of the states on the continent, and in turn we ask that you also try to be our brothers.

When I took office in Porto Rico a well-meaning friend, a local resident, came to me and stated that Porto Rico politics was a very hard game, that the boys asked no quarter and frequently gave none, and he feared that perhaps the situation might frequently become very perplexing to me in the Governor's Chair. He said, "Have you had any experience in politics?" I said, "I have had a little." He said, "Where?" I said, "in Pennsylvania." "Well," he said to me, "in that case I'm going

to warn the politicians of Porto Rico."

I just finished the work about ten days ago that was left on my desk by the Legislature of Porto Rico. We have a House of 39 members and a Senate of 19 members, which operates very much in the same manner as the Legislature of Pennsylvania frequently operates. There are many discussions, and many dissensions, but in the final analysis the results flow from the Democratic process.

Let no one be dismayed at some of the things that come out of Legislative procedure, because we are here free beings, the very keystone of democratic government, in permitting the people to express themselves through their elected representatives. The people of Porto Rico are eager and anxious to have the democratic process, to prosper in it and to learn about it from their northern brethren. When they concluded their work on the fifteenth of April, and I might add parenthetically that under our Constitution they meet on the second Monday of February every year and must adjourn by the fifteenth of April. The boys and girls—and we have some girls in our Legislature who did a "right smart" piece of work this year. When they left they had on my desk 387 bills, some of them containing 80 pages of closely typewritten words. I read every word of them; I read all the reports on them and then I decided as to my action. I think I gave them a fair break, I vetoed 199 and signed 188.

My friends, I do not want to take up your time any longer except to reiterate my great and heartfelt pleasure at being privileged to stand before you for a brief few moments in the State where I was born, where I lived most of my life and where I hope my bones may rest when my time on earth has concluded.

I invite you to come to Porto Rico during the session of our Legislature. We have somewhat more direct action than you more sophisticated brethren have in Pennsylvania. The Speaker and the President of the Senate have considerable power, and if they do not like some of the things that are said on the floor, they just rule them out and they don't get into the Journal at all. When you come to Porto Rico, I want you to see me. I will show you an island where we stand ready to defend all the things that are held near and dear by the American people. We are building defense works there through which we will be able to intercept any unfriendly visitor who might endeavor to cross the Atlantic for the purposes of attack upon any part of the New World. I am speaking of my Porto Rico citizenry now, we are doing that cheerfully and we are doing it willingly. We have almost thirty-thousand men under arms, of whom almost twenty-thousand are citizens of Porto Rico. Under the Defense Act, we have called to the service by selection more than ten thousand Porto Ricans, and all but ninety-four of those who had to be selected for special services were taken from the volunteer registers that we have in Porto Rico, and we have a sufficient number on the volunteer registers to meet all the requirements of selective service for the next two years to come.

The men and women of Porto Rico are proud to be called Americans. They know what the fundamental principles of liberty mean to them and to you on the continent, and to whatever extent they may be called upon to make good, with a full understanding of what liberty means, they will come to the support of the flag. When you come to Porto Rico I will show you some of

the most beautiful scenery outside of Pennsylvania that you can see in the whole United States, mountains and valleys, sugar cane fields, coffee plantations, grapefruit orchards and all kinds of fruit farming. When you do I will take a day off and accompany you through that island. We can cover it from one end to the other in one day. It is only one hundred miles long and thirty-five miles wide. Again I thank you for the honor you have given me tonight.

**BILL ON FIRST READING**

The SPEAKER. The Chair at this time returns to Bills on First Reading, House Bill No. 1505, Printer's No. 679.

A similar and almost identical bill, House Bill No. 851, Printer's No. 320, was twice defeated by this House. This bill cannot be considered except by unanimous consent of the House or a suspension of Rule 60.

**MOTION TO SUSPEND RULE**

Mr. SCANLON. Mr. Speaker, I move that Rule 60 of the House be suspended for the specific purpose of considering House Bill No. 1505, Printer's No. 679.

On the question,

Will the House agree to the motion?

The yeas and nays were required by Mr. GATES and Mr. NORMAN WOOD and were as follows:

**YEAS—64**

Chudoff.	Jefferson,	McSurdy.	Scanlon.
Cohen, M. M.,	Kenehan,	Melchiorre,	Schwab.
Corrigan,	Kilne,	Modell,	Shepard,
Cullen,	Kolankiewicz,	Monks,	Skale,
DiGenova,	Komorowski,	Munley,	Stank.
Duffy,	Lesko,	O'Brien,	Tate.
Early,	Levy,	O'Mullen,	Thompson, E. F.,
Falkenstein,	Lichtenwalter,	Owens,	Turner,
Finestone,	Longo,	Petrosky,	Vincent,
Finnerty,	Lovett,	Polaski,	Voldow,
Flynn,	Malloy,	Powers,	Voorhees,
Gryskewicz,	McClanaghan,	Rausch,	Watkins,
Harmuth,	McDermott,	Reese, D. P.,	Welsh, E. B.,
Herman,	McFall,	Regan,	Woodring,
Hersch,	McLanahan,	Rooney,	Young,
Hirsch,	McLane,	Rose, S.,	Kilroy, Speaker

**NAYS—80**

Achterman,	French,	James,	Rose, W. E.,
Au'fer,	Gates,	Krise,	Royer,
Balthaser,	Gillette,	Lee, T. H.,	Serrill,
Bentzel,	Goodwin,	Lelsey,	Shaffer,
Boorse,	Greenwood,	Leonard,	Simons,
Cadwalader,	Gross,	Leydic,	Snyder,
Cooper,	Gyger,	Lyons,	Sorg,
Dalrymple,	Habbyshaw,	McClester,	Stambaugh,
Dennison,	Haberlen,	McDowell,	Stine,
Cochran,	Haines,	McIntosh,	Taylor,
Dix,	Hall,	McMillen,	Thompson, R. L.,
Dolcn,	Hamilton,	Mooney,	Wagner,
D'Ortona,	Hare,	Moran,	Weingartner,
Eckels,	Harkins,	Moul,	Welsh, M. J.,
Elder,	Harris,	Muir,	Winner,
Elliott,	Heatherington,	Pettit,	Wood, L. H.,
Ely,	Helm,	Polen,	Wood, N.,
Fiss,	Hewitt,	Readinger,	Woodside,
Fleming,	Holland,	Rhea,	Wright,
Floor,	Imbrie,	Riley,	Yeakel,

Less than a majority, one hundred and five, having voted in the affirmative, the motion was not agreed to and House Bill No. 1505, Printer's No. 679, is dropped from the calendar.

**BILLS ON SECOND READING**

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 492, entitled:

An Act licensing and regulating the business of mining

anthracite coal; providing for the issuance and revocation of licenses by the Secretary of Mines; authorizing said Secretary to enter mines; to issue regulations governing the administration of this act, and to appoint mining engineers who are empowered to enter mines and inspect the same; requiring a corporate surety bond to accompany every application for a license; authorizing appeals to the Court of Common Pleas of Dauphin County; and prescribing penalties.

The first section was read.

On the question,

Will the House agree to the section?

**BILL RECOMMENDED**

Mr. STANK. Mr. Speaker, I move that this bill be recommended to the Committee on Mines and Mining for the purpose of further study.

The motion was agreed to.

**BILL ON SECOND READING**

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1280, entitled:

An Act limiting the time within which suits or actions shall be brought for damages to surface property resulting from the mining of coal; and excepting from the operation thereof any suits or actions pending on its effective date.

The first section was read.

On the question,

Will the House agree to the section?

**BILL RECOMMENDED**

Mr. STANK. Mr. Speaker, I move that this bill be recommended to the Committee on Judiciary General for the purpose of further study and possible amendment.

The motion was agreed to.

**BILL ON SECOND READING**

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1100, entitled:

An Act to further amend section 713 and to amend section 724 of the act approved the first day of May, one thousand nine hundred twenty-nine, (P. L. 905) entitled, "An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds." increasing the fee for an operator's license and providing for the payment of the increase into the general fund.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMENDED

Mr. ACHTERMAN. Mr. Speaker, I move that this bill be recommitted to the Committee on Appropriations.

The motion was agreed to.

#### BILL ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1099, entitled:

An Act to provide reimbursement for hospitals on account of expenses of the care, treatment and maintenance of indigent persons without ability or means to support themselves, injured in motor vehicle accidents; imposing powers and duties upon certain State Departments; and making an appropriation.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMENDED

Mr. ACHTERMAN. Mr. Speaker, I move that this bill be recommitted to the Committee on Appropriations.

The motion was agreed to.

#### BILL ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 460, entitled:

An Act converting the State teachers' colleges and the Cheyney Training School for Teachers into advanced technical and trade schools to be known as "Pennsylvania State Trade School Defense Training Centers," to train men for defense work; providing for admissions to and regulation of such schools and alteration and equipment of buildings therefor; and conferring powers and imposing duties on certain State departments and agencies.

The first section was read.

On the question,

Will the House agree to the section?

#### BILL RECOMMENDED

Mr. HOLLAND. Mr. Speaker, I move that this bill be recommitted to the Committee on Education.

The motion was agreed to.

#### BILL ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1661, entitled:

An Act to amend section three of the act, approved the tenth day of May, one thousand nine hundred and thirty-nine (P. L. 111), entitled "An act relating to, and providing for, the promotion and development of business, industry and commerce in the Commonwealth; conferring powers and duties upon the Department of Commerce and other agencies of the Commonwealth; abolishing the Pennsylvania State Publicity Commission, terminating the terms of its members and conferring its powers upon, and transferring and appropriating the balance of its current appropriation to, the Department of Commerce; and re-

pealing certain laws" providing for the promulgation or adoption and administration by the Department of Commerce of voluntary plans to control the output of mineral resource industries located preponderantly within the Commonwealth.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMENDED

Mr. ACHTERMAN. Mr. Speaker, I move that this bill be recommitted to the Committee on State Government for the purpose of further study.

On the question,

Will the House agree to the motion?

Mr. ACHTERMAN. Mr. Speaker, in connection with the motion to recommit this bill I want to state that it was released from committee with the understanding that it was to have two readings and then be recommitted.

On the question recurring,

Will the House agree to the motion?

It was agreed to.

#### BILLS ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1441, entitled:

An Act to amend routes 52037 and 52044 as added to the act approved the twenty-second day of June one thousand nine hundred and thirty-one (Act No. 203) entitled "An act establishing certain township roads as State highways authorizing their construction maintenance and improvement under certain conditions and restrictions limiting the obligation of the Commonwealth in the construction of certain structures located on such highways conferring certain powers upon the Department of Highways and local authorities persons associations and corporations for sharing the cost of the maintenance and construction of such highways and making an appropriation to carry out the provisions of said act" changing certain routes in the county of Potter

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1482, entitled:

An Act to amend section four hundred eighteen of the act approved the twenty-eighth day of May one thousand nine hundred and thirty-seven (P. L. 1053) entitled "An act relating to the regulation of public utilities defining as public utilities certain corporations companies associations and persons providing for the regulation of public utilities including to a limited extent municipalities engaging in public utility business by prescribing defining and limiting their duties powers and liabilities and regulating the exercise surrender or abandonment of their powers privileges and franchises defining and regulating contract carriers by motor vehicle and brokers in order to regulate effectively common carriers by motor vehicles conferring upon the Pennsylvania Public Utility Commission the power and duty of supervising and regulating persons associations companies and corporations including to a limited extent municipal corporations subject to this act and administering the provisions of this act authorizing the commission to fix temporary rates placing the burden of proof on public utilities to sustain their rates and certain other matters authorizing a permissive or

mandatory sliding scale method of regulating rates providing for the supervision of financial and contractual relations between public utilities and affiliated interests and supervision and regulation of accounts and securities or obligations issued assumed or kept by persons associations companies corporations or municipal corporations subject to this act conferring upon the commission power to vary reform or revise certain contracts conferring upon the commission the exclusive power to regulate or order the construction alteration relocation protection or abolition of crossings of facilities of public utilities and of such facilities by or over public highways to appropriate property for the construction or improvement of such crossings and to award or apportion resultant costs and damages authorizing owners of such property to sue the Commonwealth for such damages providing for ejectment proceedings in connection with the appropriation of property for crossings conferring upon the commission power to control and regulate budgets of public utilities imposing upon persons associations companies and corporations (except municipal corporations) subject to regulation the cost of administering this act prescribing and regulating practice and procedure before the commission and procedure for review by the courts of commission action giving the court of common pleas of Dauphin County exclusive original jurisdiction over certain proceedings prescribing penalties fines and imprisonment for violations of the provisions of this act and regulations and orders of the commission and the procedure for enforcing such fines and penalties and repealing legislation supplied and superseded by or inconsistent with this act" by imposing additional limitations on public utilities where a bona fide cooperative corporation has been organized to furnish light or power service in a given area to its stockholders or members

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 611, entitled:

An Act providing for the acquisition by the Department of Forests and Waters in the name of Commonwealth of certain lands in Luzerne Sullivan and Wyoming Counties for use as a State Park making an appropriation for said acquisition providing for the management of said property by said department and defining the uses to which the property shall be put

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1519, entitled:

An Act making an appropriation to the trustees of the Pennsylvania State College for the construction of certain necessary buildings for use by the School of Agriculture

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1659, entitled:

An Act making an appropriation to the Department of Revenue for the payment of accounts settled against the Commonwealth and that department in favor of certain persons associations and corporations

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1676, entitled:

An Act to further amend the act approved the second day of May one thousand nine hundred and twenty-nine (P. L. 1518) entitled as amended "An act regulating the construction equipment maintenance operation and inspection of elevators granting certain authority to and imposing certain duties upon the Department of Labor and Industry providing fees for inspection of elevators certificates of operation and approval of plans providing penalties for violations of this act and repealing all acts or parts of acts inconsistent with this act" by defining and making further provision relative to the installation and use of "man lift" elevators

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1457, entitled:

An Act establishing certain public roads in Porter Township Clarion County and Mahoning Township Armstrong County as a State highway providing for their construction and maintenance by the Department of Highways and making an appropriation

The first section was read and agreed to.

The second section was read.

On the question,

Will the House agree to the section?

Mr. GATES. Mr. Speaker, I desire to offer the following amendment.

The amendment was read by the Clerk as follows:

Amend section 2, page 2, lines 4, 5, 6 and 7 by striking out all of said lines.

The amendment was agreed to.

The section was agreed to as amended.

The third section was read.

On the question,

Will the House agree to the section?

Mr. GATES. Mr. Speaker, I desire to offer the following amendment.

The amendment was read by the Clerk as follows:

Amend section 3, page 2, line 8 by striking out the figure "3" and inserting in lieu thereof the figure "2".

The amendment was agreed to.

The section was agreed to as amended.

The title was read.

On the question,

Will the House agree to the title?

Mr. GATES. Mr. Speaker, I desire to offer the following amendment.

The amendment was read by the Clerk as follows:

Amend the title, page 1, last 2 lines of title, by striking out the words "and making an appropriation."

The amendment was agreed to.

The title was agreed to as amended.

And said bill having been read at length the second time and agreed to as amended.

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1663, entitled:

An Act making an appropriation to the Special Committee of the House of Representatives which completed an investigation of the administration of W. P. A. Sewing Projects of the Commonwealth to reimburse the committee for expenses incurred by it in making such an investigation.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1570, entitled:

An Act authorizing the Department of Property and Supplies to have a certain number of copies printed of the Report of the Joint State Government Commission on the Organization and Administration of Pennsylvania's State Government providing for the distribution and sale of such copies imposing new duties on the Joint State Government Commission and making an appropriation

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1716, entitled:

An Act to further amend sections three and ten of the act approved the fifth day of May one thousand nine hundred and thirty-three (P. L. 284) entitled as amended "An act imposing a State tax payable by those herein defined as manufacturers and by others on malt or brewed beverages used sold transported or delivered within the Commonwealth prescribing the method and manner of evidencing the payment and collection of such tax conferring powers and imposing duties on the Department of Revenue and those using or engaged in the sale at retail or wholesale or in the transportation of malt or brewed beverages taxable hereunder and providing penalties" by prescribing malt beverage tax rates for certain original containers or standard fractions thereof fixing a minimum quantity of malt or brewed beverages which may be sold in cases cartons or boxes and providing for refunds of tax for malt or brewed beverages sold to commissaries ship's stores and voluntary unincorporated organizations of the Army or of the Navy personnel operating under regulations promulgated by the Secretary of War or the Secretary of the Navy

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1631, entitled:

An Act authorizing and directing the Department of Highways to erect construct and maintain a free bridge over the Allegheny River in or near the Borough of Tarentum Allegheny County and a point in Westmoreland County and to provide the necessary approaches and connections with State highways providing for the acceptance of Federal aid empowering counties to pay certain damages and making an appropriation.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMENDED

Mr. LEYDIC. Mr. Speaker, I move that this bill be recommended to the Committee on Appropriations. The motion was agreed to.

#### BILLS ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 605, entitled:

An Act making an appropriation to the Pennsylvania State College for expenditure by the School of Mineral Industries thereof under the supervision of the Department of Mines for the purpose of developing new uses and markets for anthracite and bituminous coal

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 502, entitled:

An Act authorizing the Department of Property and Supplies with advice and approval of the Pennsylvania Historical Commission to acquire on behalf of the Commonwealth of Pennsylvania certain land which is the site of an old fortress known as Old Garrison in the City of Franklin Venango County or so much thereof as may be necessary as a historical memorial providing for the control management supervision and improvement thereof authorizing the Pennsylvania Historical Commission in cooperation with other agencies to make and enforce rules and regulations for the preservation and visitation thereof authorizing the Pennsylvania Historical Commission to cooperate with the Daughters of the American Revolution and interested patriotic societies in providing funds for a restoration of Old Garrison and making an appropriation

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1686, entitled:

An Act relating to certain civil rights and liabilities of persons in the armed service of the United States providing for the suspension of the enforcement of certain civil liabilities providing for the re-employment of such persons upon completion of such service and imposing penalties

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1487, entitled:

An Act providing for the construction and maintenance by the Department of Forests and Waters with the advice of the Bushy Run Battlefield Commission of a Bushy Run Museum Building on land owned by the Commonwealth in Westmoreland County and making an appropriation

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 941, entitled:

An Act making an appropriation to the Department of Public Instruction for the use of the Pennsylvania Historical Commission for the purpose of completing restoration and preparing for public use as a museum the property at Ambridge Beaver County Pennsylvania formerly owned and occupied by the Harmony Society and known as "Old Economy"

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1337, entitled:

An Act making an appropriation to the Department of Property and Supplies for the payment of claims against the Commonwealth arising from failure to lease premises after owners thereof had been induced to expend money thereon

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1541, entitled:

An Act providing for uniform reports by political subdivisions to departments boards and commissions of the State Government

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 223, entitled:

An Act authorizing the Department of Property and Supplies to acquire on behalf of the Commonwealth of Pennsylvania certain land upon which is still standing the birthplace of Robert Fulton in Fulton Township Lancaster County or so much thereof as may be necessary as a memorial providing for the control management supervision improvement restoration and maintenance thereof authorizing the Pennsylvania Historical Commission to make and enforce rules and regulations for the preservation and visitation thereof and making an appropriation

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1558, entitled:

An Act to further amend section two of the act approved the twenty-ninth day of March one thousand eight hundred ninety-nine (P. L. 21) entitled "An act to establish a board for the examination of accountants to provide for the granting of certificates to accountants and to provide a punishment for the violation of this act" by further regulating examination of applicants for certificates as accountants and making said section conform to the Administrative Code of 1929

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1660, entitled:

An Act to amend section seven hundred and thirty of the act, approved the ninth day of April, one thousand nine hundred and twenty-nine, (P. L. 343), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officer of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for state purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," by authorizing "the furnishing of certain confidential information to other states and the United States.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1496, entitled:

An Act authorizing the Department of Property and Supplies to construct erect and dedicate on the Capitol grounds at Harrisburg Pennsylvania a memorial to the memory of James Buchanan and making an appropriation

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 353, entitled:

An Act making an appropriation to the Department of Military Affairs for the maintenance and education of children of soldiers sailors marines female field clerks yeomen (female) and nurses who were killed in action or died during the World War and conferring certain duties upon the State Veterans' Commission

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1513, entitled:

An Act to further amend section three of the act ap-



proved the twenty-second day of June one thousand nine hundred thirty-five (P. L. 414) entitled as amended "An act to provide revenue for State purposes imposing taxes upon certain classes of personal property providing for the assessment collection and lien of the same and the distribution of the proceeds thereof imposing duties on executors administrators registers of wills recorders of deeds prothonotaries and court clerks and on persons copartnerships associations banks national banks trust companies and other corporations receiving deposits of money and on certain corporations and limited partnerships conferring powers and imposing duties on certain State officers and departments imposing penalties and making an appropriation" by exempting assets held by liquidating trustees

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 220, entitled:

An Act to amend section four of the act approved the twenty-second day of June one thousand nine hundred and thirty-one (P. L. 720) entitled "An act providing for the taking over by the Commonwealth under certain terms conditions and limitations of certain streets in cities of the second class second class A and third class as State highways and for the improvement construction reconstruction resurfacing and maintenance by the Commonwealth of certain defined widths of said streets imposing duties on such cities and on public utility companies using such streets providing that no assessment shall be made upon the Commonwealth in the elimination of any grade crossing thereon authorizing cities persons associations or corporations to enter into agreements with the Commonwealth to bear a portion of the cost of construction or maintenance providing for the assessment of certain portions of the cost of street improvements on abutting property owners regulating the replacement of certain facilities of public utility companies prohibiting the opening of said streets after improvement without a permit and providing penalty therefor regulating the maintenance of detours authorizing the increase of city indebtedness in certain cases and appropriating money in the Motor License Fund for the purposes of this act" requiring the Department of Highways to take over bridges and viaducts on State highways in cities of the third class.

The first section was read:

On the question,

Will the House agree to the section?

Mr. BENTLEY. Mr. Speaker, I desire to offer the following amendments.

The amendments were read by the Clerk as follows:

Amend sec. 1 (sec. 4) page 3, lines 25 and 26, by striking out the words "in any city of the second class and second class A".

Amend sec. 1 (sec. 4) page 3, line 26, by inserting a lightface bracket before the word "except".

Amend sec. 1 (sec. 4) page 3, line 27, by striking out the words "in such cities".

Amend sec. 1 (sec. 4) page 4, line 3, by inserting after the word "act" the following: "not maintained by the city or county".

Amend sec. 1 (sec. 4) page 4, line 4, by inserting lightface brackets before the word "and" and after the word "structures" and inserting thereafter the words: "such structures, bridges and viaducts".

Amend sec. 1 (sec. 4), page 4, line 5, by striking out the words "in cities of the second class and second class A"

Amend sec. 1 (sec. 4), page 4, line 6, by inserting lightface brackets before and after the word "city".

Amend sec. 1 (sec. 4) page 4, line 8, by inserting after the word "all" the word: "structures".

Amend sec. 1, (sec. 4) page 4, lines 8 and 9, by striking out the words "in cities of the third class".

The amendments were agreed to.

The section was agreed to as amended.

The second section was read and agreed to.

The title was read:

On the question,

Will the House agree to the title?

Mr. BENTLEY. Mr. Speaker, I desire to offer the following amendments.

The amendments were read by the Clerk as follows:

Amend the title, page 2, next to the last line of title by inserting after the word "over" the word "structures".

Amend the title, page 2, last line of title by inserting after the word "the" the following: "second, second class A and"

The amendments were agreed to.

The title was agreed to as amended.

And said bill having been read at length the second time and agreed to as amended.

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1650, entitled:

An Act providing for the cooperation of the Commonwealth and certain political subdivisions thereof with the United States in respect to flood control projects authorizing the Secretary of Highways on behalf of the Commonwealth and the authorities of the various counties cities boroughs and townships to grant and convey certain rights and easements in and relative to the highways streets roads and bridges thereof and lands bordering the same over which such governmental units may have control

The first section was read:

On the question,

Will the House agree to the section?

Mr. MOUL. Mr. Speaker, I desire to offer the following amendment.

The amendment was read by the Clerk as follows:

Amend Sec. 1, page 2, line 13, by inserting after the word "rights" the following: "and to enter into agreements therewith".

The amendment was agreed to.

The section was agreed to as amended.

The second section was read:

On the question,

Will the House agree to the section?

Mr. MOUL. Mr. Speaker, I desire to offer the following amendments.

The amendments were read by the Clerk as follows:

Amend Sec. 2, page 2, line 19, by inserting after the word "may" the following: "with the approval of the Water and Power Resources Board".

Amend Sec. 2, page 2, line 26, by inserting after the word "bridge" the following: "viaduct".

Amend Sec. 2, page 2, line 28, by inserting at the end of said line, the following: "Such highways, streets, bridges, viaducts and roads shall continue to be maintained by the State or its local subdivisions and the United States shall not be liable for any damages resulting from personal injuries, death or damage to property

that may, at any time, result from the exercise of any right or easement granted under the provisions of this act."

Amend Sec. 2, page 3, by inserting between lines 7 and 8, the following: "(3) To relocate roads, streets, bridges, viaducts and other public works and improvements at the cost of the United States. The relocation of State highway routes may be made without regard to terminal or intermediate points mentioned in the law establishing such routes. Agreements may provide for abandonment of existing roads, streets, bridges, viaducts and public works and improvements, whether or not supplied by relocations.

The amendments were agreed to.

The section was agreed to as amended.

The third section was read and agreed to.

The title was read:

On the question,

Will the House agree to the title?

Mr. MOUL. Mr. Speaker, I desire to offer the following amendments.

The amendments were read by the Clerk as follows:

Amend title, page 1, line 6 of title, by inserting after the word "townships" the following: "with the approval of the Water and Power Resources Board."

Amend title, page 1, line 6 of title, by inserting after the word "to" the following: "enter into certain agreements with, and to".

Amend title, page 1, line 6 of title, by inserting after the word "convey" the following: "to the United States".

The amendments were agreed to.

The title was agreed to as amended.

And said bill having been read at length the second time and agreed to as amended.

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1182, entitled:

An Act to increase the usefulness of the Farm Show Building and Arena providing for holding of various exhibitions and shows creating State show commissions as departmental administrative commissions in various departments and agencies of the State government and making appropriations.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMITTED

Mr. DAVID P. REESE. Mr. Speaker, I move that this bill be recommitted to the Committee on Appropriations.

The motion was agreed to.

#### BILLS ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1662, entitled:

An Act to amend the title and further amend section one of the act, approved the twenty-second day of June, one thousand in hundred and thirty-one (P. L. 844), entitled "An act authorizing the Commonwealth of Pennsylvania, or any department or division thereof, and counties, cities, boroughs, incorporated towns, townships, school districts and poor districts to make contracts of life, health, and accident policies for the benefit of em-

ployes thereof, and contracts for pensions for such employes; and providing for the payment of the cost thereof," authorizing the making of contracts for hospitalization; and extending the provisions of the act to vocational school districts and institution districts.

And said bill having been read at length the second time and agreed to.

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1673, entitled:

An Act to further amend section one thousand one hundred thirty-three of the act, approved the eighteenth day of May, one thousand nine hundred and eleven (P. L. 309), entitled "An act to establish a public school system in the Commonwealth of Pennsylvania, together with the provisions by which it shall be administered, and prescribing penalties for the violation thereof; providing revenue to establish and maintain the same, and the method of collecting such revenue; and repealing all laws, general, special or local, or any parts thereof, that are or may be inconsistent therewith," by removing certain limitations of the appointment of district superintendents.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1525, entitled:

An Act to amend section seven hundred one and to further amend section seven hundred six of the act approved the eighteenth day of May one thousand nine hundred and eleven (P. L. 309) entitled "An act to establish a public school system in the Commonwealth of Pennsylvania together with the provisions by which it shall be administered and prescribing penalties for the violation thereof providing revenue to establish and maintain the same and the method of collecting such revenue and repealing all laws general special or local or any parts thereof that are or may be inconsistent therewith" authorizing the various boards of school directors to purchase and furnish free of charge uniforms for the members of school bands and orchestras

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1692, (Senate Bill No. 465), entitled:

An Act authorizing the Secretary of Highways to lengthen or shorten State highway routes under certain conditions and providing for the payment of damages.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMITTED

Mr. ACHTERMAN. Mr. Speaker, I move that this bill be recommitted to the Committee on Highways.

The motion was agreed to.

#### BILLS ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1691, (Senate Bill No. 419), entitled:

An Act providing for the reconnaissance survey of a State highway between the city of Harrisburg, in the county of Dauphin, and the borough of New Hope, in the county of Bucks.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1382, (Senate Bill No. 448), entitled:

An Act to amend sections three hundred and eight and four hundred and one of the act approved the twenty-first day of June one thousand nine hundred and thirty-nine (P. L. 566) entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment establishing an elective schedule of compensation providing procedure for the determination of liability and compensation thereunder imposing duties on the Department of Labor and Industry the Workmen's Compensation Board Workmen's Compensation Referees and deans of medical schools creating a medical board to determine controverted medical issues establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases making an appropriation and prescribing penalties" by changing the method of handling the funds made available from time to time to meet the obligation of the Commonwealth to pay a part of the compensation payable for certain occupational diseases clarifying the procedure for establishing such liability of the Commonwealth and providing for the transfer and lapsing of certain moneys into the General Fund.

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL PASSED OVER

There being no objection House Bill No. 1445, Senate Bill No. 302, Printer's No. 162, was passed over at the request of Mr. TROUT.

#### BILLS ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1529, entitled:

A Supplement to the act approved the twenty-second day of June one thousand nine hundred and thirty-one (P. L. 594) entitled "An act establishing certain township roads as State highways authorizing their construction maintenance and improvement under certain conditions and restrictions limiting the obligation of the Commonwealth in the construction of certain structures located on such highways conferring certain powers upon the Department of Highways and local authorities persons associations and corporations for sharing the cost of the maintenance and construction of such highways and making an appropriation to carry out the provisions of said act" establishing additional routes to be used as a part of the national defense program in the County of Cambria

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1509, entitled:

An Act providing for increase in salaries of all teachers school secretaries nurses attendance officers and all other regular employes of school districts of the first class

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMITTED

Mr. READINGER. Mr. Speaker, I move that this bill be recommitted to the Committee on Education.

The motion was agreed to.

#### BILL ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1530, entitled:

An Act authorizing and directing the Department of Highways to erect and construct a bridge over the Lackawanna River between a point in or near the Borough of Blakely Lackawanna County and a point in or near the Borough of Olyphant in Lackawanna County and to provide the necessary approaches thereto and making an appropriation

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

#### BILL RECOMMITTED

Mr. STANK. Mr. Speaker, I move that this bill be recommitted to the Committee on Appropriations for the purpose of further study and possible amendment.

The motion was agreed to.

#### BILLS ON SECOND READING

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 991, entitled:

An Act to add section 435 to the act approved June second one thousand nine hundred fifteen (P. L. 736) entitled "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment establishing an elective schedule of compensation providing procedure for the determination of liability and compensation thereunder and prescribing penalties" providing that hospitals institutions physicians surgeons and others furnishing medical dental or nursing services hospital treatment artificial appliances medicines and supplies for which the employer is liable shall be deemed parties in interest to present claims and to enforce awards in Workmen's Compensation proceedings

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 1542, entitled:

An Act to amend route 55121 as added to the act approved the twenty-second day of June one thousand nine

hundred and thirty-one (P. L. 594) entitled "An act establishing certain township roads as State highways authorizing their construction maintenance and improvement under certain conditions and restrictions limiting the obligation of the Commonwealth in the construction of certain structures located on such highways conferring certain powers upon the Department of Highways and local authorities persons associations and corporations for sharing the cost of the maintenance and construction of such highways and making an appropriation to carry out the provisions of said act" changing a route in the County of Somerset

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 989, entitled:

An Act to amend section four hundred and eighteen of the act approved the seventeenth day of May one thousand nine hundred and twenty-one (P. L. 682) entitled "An act relating to insurance amending revising and consolidating the law providing for the incorporation of insurance companies and the regulation supervision and protection of home and foreign insurance companies Lloyds associations reciprocal and inter-insurance exchanges and fire insurance rating bureaus and the regulation and supervision of insurance carried by such companies associations and exchanges including insurance carried by the State Workmen's Insurance Fund providing penalties and repealing existing laws" by allowing certain exemptions to be waived in favor of labor unions

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 722, entitled:

An Act to further amend section twenty-one of the act approved the fourteenth day of June one thousand nine hundred and twenty-three (P. L. 710) entitled "An act allowing and regulating boxing sparring and wrestling matches and exhibitions establishing a State Athletic Commission making an appropriation therefor and appropriating moneys received from monument and memorial purposes and prescribing penalties" by imposing a tax on the privilege of attending such spectacles and repealing former tax

And said bill having been read at length the second time and agreed to,

Ordered, To be transcribed for a third reading.

Agreeably to order,

The House proceeded to the second reading and consideration of House Bill No. 723, entitled:

An Act to further amend section fourteen of the act approved the eighteenth day of July one thousand nine hundred and seventeen (P. L. 1043) entitled "An act establishing a public school employes' retirement system and creating a retirement board for the administration thereof establishing certain funds from contributions by the Commonwealth and contributing employes defining the uses and purposes thereof and the manner of payment therefrom and providing for the guaranty by the Commonwealth of certain of said funds imposing powers and duties upon boards having the employment of public school employes exempting annuities allowances returns benefits and rights from taxation and judicial process and providing penalties" extending the retirement provisions relating to former teachers to additional cases who sep-

arated from school service because of physical or mental disability prior to the first day of July one thousand nine hundred and nineteen

And said bill having been read at length the second time and agreed to as amended.

Ordered, To be transcribed for a third reading.

#### BILL PASSED OVER

There being no objection House Bill No. 1477, Senate Bill No. 418, Printer's No. 362, was passed over at the request of Mr. READINGER.

#### BILL ON FINAL PASSAGE

Agreeably to order,

The bill having been called up from the postponed calendar by Mr. SKALE.

The House resumed the consideration on final passage of House Bill No. 1406, (Senate Bill No. 588), as follows:

An Act to protect the debtors, obligors or guarantors of debt for which judgments are entered or may be entered and owners of real property affected thereby, and others indirectly liable for the payment thereof by prescribing the method of fixing the fair market value of such property and limiting the amount collectible thereafter on such judgments

#### RECONSIDERATION OF VOTE

Mr. SKALE. Mr. Speaker, I move that the vote by which this bill passed third reading be reconsidered.

Mr. CORRIGAN. Mr. Speaker, I second the motion.

The SPEAKER. How did the gentleman from Philadelphia, Mr. Skale, vote on the third reading of this bill?

Mr. SKALE. Mr. Speaker, I voted in the majority.

The SPEAKER. How did the gentleman from Philadelphia, Mr. Corrigan, vote on the third reading of this bill?

Mr. CORRIGAN. Mr. Speaker, I voted in the majority.

On the question,

Will the House agree to the motion?

It was agreed to.

Or, the question recurring,

Will the House agree to the bill on third reading?

Mr. SKALE. Mr. Speaker, I ask unanimous consent to offer amendments at this time.

The SPEAKER. The amendments will be read by the Clerk for information.

The Clerk read the amendments as follows:

Amend page 2, line 23, by inserting after the word "petitioner", the following: "or ascertainable upon reasonable inquiry".

Amend page 3, line 7, by striking out the words "or any other person".

Amend page 3, line 22, by inserting after the word "answer", the following "in writing".

Amend page 3, by inserting between lines 23 and 24 a new sentence as follows: "A copy of such answer shall be served upon the petitioner within a reasonable time prior to the hearing".

Amend page 4, line 7, by inserting before the word "in", the following: "once a week for two successive weeks both".

Amend page 4, line 8, by inserting after the word "county", the following: "the last such publication to appear".

Amend page 5, line 9, by inserting after the word "sold" the following: "at the time of said sale".

The SPEAKER. Will the House give unanimous con-

sent to the offering of amendments at this time? Is there objection? The Chair hears none.

On the question,

Will the House agree to the amendments?

They were agreed to.

On the question,

Will the House agree to the bill on third reading as amended?

It was agreed to.

Ordered, That the bill as amended lie over for printing.

**BILL ON FINAL PASSAGE**

Agreeably to order,

The House proceeded to the consideration on final passage of House Bill No. 1166, as follows:

An Act to amend section two of the act approved the twenty-sixth day of May one thousand nine hundred and twenty-one (P. L. 1172) entitled "A supplement to the act approved the seventeenth day of May one thousand nine hundred seventeen (P. L. 208) entitled 'An act to regulate the practice of pharmacy and sale of poisons and drugs and providing penalties for the violation thereof defining the words "drug" and "poison" and providing for the appointment of a board which shall have in charge the enforcement of said law and the power to make rules and regulations for the enforcement of said law and providing for the purchase of samples of drugs for determining their quality strength and purity' requiring permits to conduct pharmacies providing for the revocation thereof and prescribing penalties" further regulating the issuance of permits to conduct pharmacies

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows

Section 1 Section two of the act approved the twenty-sixth day of May one thousand nine hundred and twenty-one (P. L. 1172) entitled "A supplement to the act approved the seventeenth day of May one thousand nine hundred seventeen (P. L. 208) entitled 'An act to regulate the practice of pharmacy and sale of poisons and drugs and providing penalties for the violation thereof defining the words "drug" and "poison" and providing for the appointment of a board which shall have in charge the enforcement of said law and the power to make rules and regulations for the enforcement of said law and providing for the purchase of sample of drugs for determining their quality strength and purity' requiring permits to conduct pharmacies providing for the revocation thereof and prescribing penalties" is hereby amended to read as follows

Section 2 Upon application on a form to be prescribed and furnished it and the payment of a fee of two dollars (\$2.00) the Pennsylvania Board of Pharmacy shall issue a permit to conduct a pharmacy to such persons associations copartnerships or corporations as the board deems qualified to conduct such business Qualifications to conduct such business shall include such physical requirements as may be established by the board including stock equipment library sanitation adequate space and such other conditions as may be necessary to protect the public safety in the matter of drugs and prescriptions All applicants shall be citizens of the United States Provided however That in the case of copartnerships associations and corporations the members or officers of such copartnership association or corporation shall be citizens of the United States When the conditions which obtained when the permit was issued have changed then a new permit must be applied for All permits issued under the provisions of this act shall be exposed in a conspicuous place in the pharmacy for which it was issued and shall expire on the first day of July following the date of issue No permit shall be issued unless it appears to the satisfaction of the board that the management of the phar-

macy is in the charge of a pharmacist registered under the provisions of the act to which this is a supplement All permit fees collected under the provisions of this act shall be paid into the State Treasury

Section 2 The provisions of this act shall become effective immediately upon final enactment

And said bill having been read at length the third time, considered and agreed to.

On the question,

Shall the bill pass finally?

Agreeably to the provisions of the Constitution the yeas and nays were taken and were as follows, viz:

**YEAS—96**

Achterman,	Hamilton,	Monks,	Scanlon,
Balthaser,	Harkins,	Mooney,	Schwab,
Bentley,	Harmuth,	Moran,	Shaffer,
Brunner, P. A.,	Harris,	Muir,	Shaw,
Burns,	Heatherington,	Munley,	Shepard,
Cohen, R. E.,	Hering,	Nunemacher,	Skale,
Corrigan,	Hersch,	O'Brien,	Stank,
Croop,	Hirsch,	O'Mullen,	Tarr,
Cullen,	Jefferson,	O'Neill,	Tate,
DiGenova,	Keenan,	Owens,	Thompson, E. F.,
Dolon,	Leuehan,	Pettit,	Turner,
D'Ortona,	Kolankiewicz,	Polaski,	Verona,
Duffy,	Komorowski,	Polen,	Voldow,
Early,	Leonard,	Powers,	Voorhees,
Falkenstein,	Lesko,	Prosen,	Wells,
Finestone,	Longo,	Rank,	Welsh, E. E.,
Finnerty,	Malloy,	Readinger,	Williams,
Gallagher,	Maxwell,	Reese, D. P.,	Wolf,
Gerard,	McClanaghan,	Regan,	Woodring,
Goodwin,	McDermott,	Rooney,	Woodside,
Gross,	McIntosh,	Rose, S.,	Wright,
Gryskewicz,	McLane,	Rose, W. E.,	Yester,
Habbyslaw,	Melchorre,	Rush,	Young,
Haberien,	Modell,	Sarraff,	Kilroy,

Speaker.

**NAYS—57**

Auker,	Gyger,	Lovett,	Simons,
Bentzel,	Haines,	Lyons,	Sorg,
Boorse,	Hall,	McClester,	Stambaugh,
Bower,	Helm,	McDowell,	Stockham,
Brunner, C. H.,	Hewitt,	McKinney,	Taylor,
Cochran,	Imbrie,	McLanahan,	Thompson, R. L.,
Cooper,	James,	McMillen,	Trot,
Cordier,	Kline,	McSurdy,	Van Allsburg,
Dalrymple,	Knoble,	Petrosky,	Wagner,
Dennison,	Krise,	Reagan,	Watkins,
Dix,	Lee, E. A.,	Reese, R. E.,	Winnier,
Eckels,	Lelsey,	Rhea,	Wood, L. H.,
Elder,	Levy,	Riley,	Wood, N.,
Fiss,	Leydic,	Royer,	Yeakel,
Gillette,	Lichtenwalter,	Serrill,	

Less than the majority required by the Constitution having voted in the affirmative, the question was determined in the negative and the bill falls.

**COMMITTEE APPOINTED RESOLUTION No. 89**

The SPEAKER. In pursuance to the provisions of House Resolution No. 89, Printer's No. 543, the Chair appoints the following Select Committee: Messrs. McClanaghan, Chairman, Sarraf, McIntosh, Charles H. Brunner and Lichtenwalter.

**ANNOUNCEMENT BY SPEAKER**

The SPEAKER. The Speaker's biennial picnic party will be held on Wednesday, June 4, at 4 o'clock, Daylight Saving Time, at the Blue Ridge Country Club.

Members, officers and employes of the House, the staff and employes of the Legislative Reference Bureau and members of the Legislative Correspondence Association are cordially invited.

Detailed announcements concerning the picnic plans will be placed in each member's post office box Tuesday.

### REPORTS FROM COMMITTEES

Mr. POLASKI, from the Committee on State Government, reported as amended, House Bill No. 1488, entitled:

An Act preserving the rights of persons enlisting or being inducted or drafted into the military or naval service of the United States, under licenses or registrations issued by the Department of Public Instruction and the Department of Insurance to practice professions or to work at trades or occupations; and providing for renewals after discharge from such service.

Mr. KENEHAN, from the Committee on Highways, reported as amended, House Bill No. 1432, entitled:

An Act to further amend section two of the act, approved the twenty-second day of June one thousand nine hundred and thirty-one (P. L. 720) entitled "An act providing for the taking over by the Commonwealth, under certain terms, conditions, and limitations, of certain streets in cities of the second class, second class A, and third class as State highways, and for the improvement, construction, reconstruction, resurfacing and maintenance by the Commonwealth of certain defined widths of said streets; imposing duties on such cities and on public utility companies using such streets; providing that no assessment shall be made upon the Commonwealth in the elimination of any grade crossing thereon; authorizing cities, persons, associations, or corporations to enter into agreements with the Commonwealth to bear a portion of the cost of construction or maintenance; providing for the assessment of certain portions of the cost of street improvements on abutting property owners; regulating the replacement of certain facilities of public utility companies; prohibiting the opening of said streets after improvement without a permit, and providing penalty therefor; regulating the maintenance of detours; authorizing the increase of city indebtedness in certain cases; and appropriating money in the Motor License Fund for the purposes of this act," by changing certain routes and adding certain new routes.

Mr. HIRSCH, from the Committee on Highways, reported as amended, House Bill No. 1705, entitled:

An Act to amend the act, approved the fifth day of May, one thousand nine hundred and twenty-seven (P. L. 787), entitled "An act establishing certain public roads as State highways, and providing for their construction and maintenance at the expense of the Commonwealth," by changing certain routes and adding certain new routes.

Mr. HARMUTH, from the Committee on Highways, reported as amended, House Bill No. 1431, entitled:

An Act to further amend section two of the act, approved the first day of June, one thousand nine hundred and thirty-three (P. L. 1172) entitled "An act establishing certain streets in boroughs and incorporated towns as State highways, and providing for their construction and maintenance at the expense of the Commonwealth," by changing certain routes and adding certain new routes.

Mr. PAUL A. BRUNNER, from the Committee on Highways, reported as amended, House Bill No. 1430, entitled:

An Act to further amend section two of the act, approved the twenty-second day of June, one thousand nine hundred and thirty-one (P. L. 594) entitled "An act establishing certain township roads as State highways; authorizing their construction, maintenance, and improvement under certain conditions and restrictions; limiting the obligation of the Commonwealth in the construction of certain structures located on such highways; conferring certain powers upon the Department of Highways and local authorities, persons, associations and corporations for sharing

the cost of the maintenance, and construction of such highways; and making an appropriation to carry out the provisions of this act," by changing certain routes and adding certain new routes.

### SENATE MESSAGE

#### HOUSE BILLS CONCURRED IN BY SENATE

The Clerk of the Senate being introduced, returned bills from the House of Representatives numbered and entitled as follows:

#### HOUSE BILL No. 374.

An Act to add clause (e) to section four of the act approved the second day of July, one thousand nine hundred and thirty-five (P. L. 540), entitled "An act defining the term 'fiduciary'; prescribing the nature and kind of investments which may be made by such fiduciaries; validating certain investments heretofore made by such fiduciaries; and repealing acts and parts of acts inconsistent herewith," by permitting fiduciaries holding mortgages to accept deeds in lieu of foreclosures; and prescribing the effect thereof.

#### HOUSE BILL No. 885.

An Act to further amend section five hundred and thirty of the act approved the twenty-fourth day of June, one thousand nine hundred and thirty-one, (P. L. 1206), entitled "An act concerning townships of the first class; amending, revising, consolidating and changing the law relating thereto," providing for filling vacancies in the office of township commissioner.

#### HOUSE BILL No. 717.

An Act relating to criminal procedure; providing for the securing of attendance of witnesses from within or without the State in criminal cases; and making uniform the law in reference thereto.

#### HOUSE BILL No. 1240.

An Act fixing the fee to be charged by the local authorities in cities of the first class for furnishing certified copies of the record of any birth death or marriage which had been registered in the office of such local authorities prior to the taking effect of the Act approved June seventh one thousand nine hundred fifteen (P. L. 900) and for searches of the files and records when no certified copy is made.

#### HOUSE BILL No. 1255.

An Act authorizing cities of the first class which have issued or may hereafter issue bonds to redeem the same and issue new bonds therefor.

#### HOUSE BILL No. 104.

An Act to further amend section seven of the act, approved the fifth day of January, one thousand nine hundred and thirty-four (P. L. 223, 1933-34), entitled "An act providing compensation to certain persons who served in the military or naval forces of the United States during the World War, the war between the United States and Spain, the China Relief Expedition, or in the Philippines or Guam; providing the method of making payment to representatives of persons who, because of death or incapacity, cannot personally receive compensation; imposing certain duties on the Adjutant General; making an appropriation; and repealing inconsistent legislation; and providing penalties," extending the time during which application may be filed for veterans' compensation.

#### HOUSE BILL No. 1270.

An Act to further amend sections one and two and seven of the act approved the twelfth day of June one thousand

nine hundred and thirty-one (P. L. 510) entitled "An Act providing for the licensure and regulation of certain private nursing homes and private hospitals conferring certain powers and duties upon the Department of Welfare and providing penalties" limiting the provisions of said act to exclude nursing homes and hospitals operated on a non-profit basis

HOUSE BILL No. 525.

An Act amending, revising, consolidating and changing the law relative to the borrowing of money by certain political subdivisions, the authorization, issuance and sale of general obligation bonds, as herein defined, of bonds imposing no general obligation of debt, and of bonds not deemed to constitute a debt for certain purposes, and to the funding of debt and the refunding of bonds, regulating the keeping and use of sinking funds; imposing powers and duties upon the Department of Internal Affairs and upon corporate bodies and officers of political subdivisions; imposing penalties; and repealing existing laws

HOUSE BILL No. 1259.

An Act creating and providing for and regulating the maintenance and operation of a county employes' retirement system in counties of the fourth class; and imposing certain charges on counties and fixing penalties

With the information that the Senate has passed the same without amendment.

CONDOLENCE RESOLUTION

M.. HEATHERINGTON offered a privileged resolution which was read, considered and adopted as follows:

In the House of Representatives, June 2, 1941.

The House of Representatives learns with sorrow of the passing of William Henry Heath, who died at his home in Greenock, Pennsylvania last Saturday.

Mr. Heath was born in Greenock in 1866. He served as justice of the peace in Elizabeth Township for eighteen years, and was a Member of the House of Representatives from 1907 to 1909. From 1909 to 1911 he served as postmaster of the House of Representatives.

During his entire lifetime, spent in the place where he was born, he devoted himself to the civic betterment of his community, and his decease will be keenly felt by all his fellow-townsmen; be it therefore

Resolved, That the House of Representatives mourn the passing of this distinguished citizen of Pennsylvania and be it further

Resolved, That a copy of this resolution be mailed by the Chief Clerk to his widow and the other members of the family of the deceased as a token of the House of Representative's sincere sympathy for them in their great bereavement.

COMMITTEE MEETINGS

EASTERN STANDARD TIME

Appropriations, Tuesday, June 3 at 11:30 a. m. in Room 327.

Judiciary General, Tuesday, June 3 at 10:00 a. m. in Room 246.

Judiciary Special, Tuesday, June 3 at 11:30 a. m. in Room 246.

Motor Vehicles, Tuesday, June 3 at 11:00 a. m. in Room 324.

Workmen's Compensation, Tuesday, June 3 at 11:00 a. m. in the New House Caucus Room.

Rules Committee will meet Tuesday, June 3 at 10:30 a. m. in the Speaker's Office.

A Meeting of the Special Committee appointed to investigate the Greenwich Street Explosion in Philadelphia on February 11, 1941 will meet in Room 246 on Tuesday at 9:30 a. m. Every member is urged to attend.

JOINT PUBLIC HEARING

A Joint Public Hearing on House Bill No. 942 will be held in the Senate Caucus Room on Tuesday, June 3, 1941 at 9:00 a. m., E.S.T.

ANNOUNCEMENT

The Pennsylvania Legislature Kiwanis Club is sponsoring a trip to the Huntsdale Fish Hatchery on Tuesday, June 3rd, at 9:00 a. m. Daylight Saving Time. The trip will take about three hours, and the group will be in charge of Charles French, Fish Commissioner. All members of the House are invited to take this trip. If you can go along please notify either the Honorable Samuel Dennison of Jefferson County or the Honorable Roy Haberlen of Westmoreland County, immediately following tonight's session.

This is the newest and largest fish hatchery in the State, and it will be well worth the time which it takes to make the trip.

ADJOURNMENT

Mr. MONKS. Mr. President, I move that this House do now adjourn until Tuesday, June 3, 1941, at 12 m.

The motion was agreed to, and (at 11:06 p. m.) the House adjourned.